

MEMORANDUM OF UNDERSTANDING

**between
New Jersey Institute of Technology
and the
Newark Board of Education**

The terms and conditions in this Memorandum of Understanding (“MOU”) will govern and take precedence over any other Agreement by and between **NEW JERSEY INSTITUTE OF TECHNOLOGY**, a public research university, located at 323 Dr. Martin Luther King, Jr. Boulevard, Newark, NJ 07102 (“Partner”) and **THE NEWARK BOARD OF EDUCATION** (the “Board” or “NBOE”) located at 765 Broad Street, Newark, NJ 07102.

WHEREAS, GEAR UP (Gaining Early Awareness and Readiness for Undergraduate Programs) is a discretionary, federal grant program with a state-funded match (College Bound) and the goal of which is to increase the number of low-income students who are prepared to enter and succeed in postsecondary education; and

WHEREAS, the TRIO Programs (Talent Search and Upward Bound) are Federal outreach and student services programs designed to identify and provide services for individuals who are low-income and potentially first-generation college students in order to prepare them for college entry and graduation; and

WHEREAS, Partner, a public research university located in the City of Newark, is a program site for GEAR UP/College Bound and TRIO, namely the Educational Talent Search and Upward Bound programs; and

WHEREAS, Partner’s staff has the education, certification, training and/or work experience in this area so as to be able to provide these services responsibly; and

WHEREAS, Partner and the Board seek to continue and further improve their collaborative efforts in implementing GEAR UP/College Bound and TRIO; and

WHEREAS, the Board voluntarily desires to allow Partner to provide such services to the Board.

NOW THEREFORE, in consideration of the mutual promises and covenants set forth in this MOU, the receipt and sufficiency thereof being acknowledged by both parties, the Board and Partner hereby agree as follows:

SCOPE OF SERVICES:

NBOE and NJIT will continue to work collaboratively to implement the GEAR UP/ College Bound and TRIO (Talent Search and Upward Bound) at NJIT (each individually and collectively, the “Program”) by performing the roles and responsibilities outlined in the Scope of Work, attached hereto as Exhibit A and incorporated herein (the “Scope of Work”). The Scope of Work identifies the NBOE schools currently participating in the Program, but these schools are subject to change.

Each Party agrees that all activities conducted under this Agreement will be performed on a “best efforts” and “good faith” basis and neither Party can guarantee specific results or outcomes.

ADDITIONAL TERMS:

1. New Jersey Law - The MOU shall be governed by and construed in accordance with the laws of the State of New Jersey. Any and all proceedings relating to the subject matter hereof shall be maintained

in the courts sitting in New Jersey, venued in Essex County, which courts shall have exclusive jurisdiction for each purpose. The parties agree that any and all claims arising under this Agreement, or related thereto, shall be heard and determined in a court of competent jurisdiction in New Jersey.

2. Funding - This MOU is not a commitment of funds. No monies will be exchanged between the parties for the services rendered or received. It is expressly understood by the parties that the Board's voluntary participation in this MOU does not require any monetary payment of any kind from the Board in exchange for the services being provided by Partner, its subcontractor, agent or representative under this MOU.

3. Confidentiality –Both parties will keep confidential all information marked and/or identified as confidential at the time of disclosure by the other Party other than to the extent disclosure is required to perform this Agreement. “All information” referred to herein excludes information: (a) generally available to the public otherwise than by disclosure in breach of this Agreement; (b) that is known to the receiving Party prior to the time of disclosure; (c) that is independently developed by or for the receiving Party; or (d) that is required by any law (e.g., New Jersey Open Public Records Act), regulation, subpoena, statute and/or court or administrative order to be disclosed. The terms of this confidentiality provision shall survive expiration and/or termination of this Agreement for three (3) years thereafter.

Both parties agree to maintain all staff and student information confidentially in accordance with all New Jersey state and federal laws and regulations, including but not limited to, the Children's Online Privacy and Protection Act (“COPPA”), the federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Family Educational Rights and Privacy Act (“FERPA”), Federal Regulations (42 CFR-Part 2 and 42 CFR-Parts 160 & 164), and the N.J. Children of Substance Abusers Legislation of 1999 (N.J.S.A. 18A:40A-7.1).

The Board will provide, via a secure method of transmission, the education records of students participating in the Program (the “Student Data”) as further described in the Data Management Plan, attached hereto and incorporated herein as Exhibit A. All transmittals of Student Data between Partner to the Board are subject to obtaining appropriate written consent and/or release for the same. Partner will secure the written consent of the parent/legal guardian of participating students for the disclosure of a student's education records. Notwithstanding, the Board designates Partner as a “school official” with a legitimate educational interest in the personally identifiable information found in the Student Data and is under the control and direction of the Board with respect to such records as contemplated by the Federal Educational Rights and Privacy Act (“FERPA”)

Use of the Records. Partner agrees to the following with respect to the Student Data:

- i. As generally described in Exhibit A, Partner will use and disclose the Student Data solely as needed to fulfill the program requirements of the Program;
- ii. Partner will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Student Data; and
- iii. In the unlikely event of a discovery of a breach, Partner will notify the Board as soon as practicable informing it of the same and Partner will take steps to limit and mitigate the damage of such security breach.

4. Academic Matters.

While participating in the Program courses with Partner, the Board's students shall be considered non-matriculated enrolled students (someone who is enrolled on a course-by-course basis and has not been accepted as a regular student pursuing a degree). All Board students shall be subject to and expected to follow all applicable Partner's policies, procedures and/or guidelines pertaining to other Partner students. The Board acknowledges and agrees that Partner shall have sole and final authority and oversight with respect to all academic matters regarding the Program, including but not limited to admission and registration processes, awarding of college course credit, and maintenance of student records.

Implementation and interpretation of this Agreement will be consistent with and subject to all applicable and mandatory approvals, policies and procedures established by the appropriate accreditation bodies, including Middle States Commission on Higher Education, the New Jersey Secretary of Higher Education, the New Jersey Department of Education, and other agencies that have jurisdiction over the operation of either Party.

This Agreement is subject to any required approvals for the Program from said accreditation bodies and Partner shall not be in breach or default of this Agreement if it is unable to obtain the same.

5. Indemnification/Limitation of Liability - Subject to the provisions of the New Jersey Tort Claims Act and the New Jersey Contractual Liability Act, Partner shall be responsible for and defend itself against any and all suits, claims, losses, demands or damages of whatsoever kind or nature arising out of or in connection with any wrongful or negligent act or omission of its employees, agents or officers, in the performance of this Agreement.

The Board shall be responsible for and defend itself against any and all suits, claims, losses, demands or damages of whatsoever kind or nature arising out of or in connection with any wrongful or negligent act or omission of its employees, agents or officers, in the performance of this Agreement.

Neither Party waives any right or defense to indemnification that may exist under law or equity. Neither Party shall have any liability to the other for any consequential, exemplary, special, incidental or punitive damages even if advised of the possibility of such damages, including without limitation lost profits and opportunity.

6. Term/Termination for Convenience – The term of this Agreement shall commence upon September 1, 2021 (the "Effective Date") and terminate on August 31, 2027 (such period, the "Term") to cover the full grant cycles of GEAR UP/College Bound and TRIO. If the Parties mutually agree to conduct the Program in subsequent years, the Parties may extend the Term by written amendment executed by both Parties. Either party may terminate this Agreement early by submitting thirty (30) days' prior written notification before the end of Program to the other Party. Termination or cancellation of this Agreement shall not affect the rights and obligations of the Parties accrued prior to termination.

7. Reporting: Partner shall provide the Board's contact with reports at the end of each academic year containing the following information: (1) Names of the NBOE Schools and each program partner; (2) Number of students by NBOE school, grade level, and title of each program partner; (3) Event types hosted by the program partner and NBOE student participation rate. Notwithstanding the foregoing, as to the requirement of the Partner including a student roster in the annual report and separately from the annual report, the NBOE must ensure that all target school data requested by the Partner's GEAR UP/College Bound/UBELLs and TRiO directors, as detailed in the MOU, are submitted to the Partner's directors according to the timelines specified in the MOU. This will allow the Partner's directors to prepare mandated

State and Federal reports in a timely manner and meet the NBOE's May reporting timeline.

8. Insurance - Each Party shall procure and maintain insurance, or a program of self-insurance, to adequately protect against claims for bodily and personal injury, including death, and damage to property which may arise or result from performance of this Agreement. The type, form and minimum amount of coverage of this insurance is as follows:

- a. Commercial General Liability Insurance ("CGL") coverage, in an amount not less than ONE MILLION and 00/100 (\$1,000,000.00) DOLLARS per occurrence, TWO MILLION and 00/100 (\$2,000,000.00) DOLLARS aggregate per year;
- b. If using owned or leased vehicles in connection with its performance hereunder, Commercial Automobile Liability Insurance covering owned and/or hired vehicles, with a minimum liability limit of ONE MILLION and 00/100 (\$1,000,000) DOLLARS Combined Single Limit; and
- c. Worker's Compensation and Employers' Liability coverage at New Jersey statutory limits and Employers' Liability coverage of not less than ONE MILLION and 00/100 (\$1,000,000) DOLLARS per accident.

All of the above-listed insurance shall be written by financially sound and responsible insurance companies authorized to conduct business in the State of New Jersey. Each Party shall name the other Party, its officers, directors, agents, trustees and employees as an additional insured on such Party's CGL insurance policy with respect to third party claims covered under each Party's indemnity obligations herein. Each Party shall submit to the other Party certificates of all insurance required to be maintained, such certificates to specify that the insurer will provide thirty (30) days prior written notice of any material change, cancellation or intent not to renew such coverage.

9. Independent Entities/No Third Party Rights - None of the provisions of the MOU are intended to create nor shall be deemed or construed to create any relationship between the parties hereto other than that of independent entities contracting with each other solely for the purposes of effecting the provisions of the MOU. Neither of the parties, hereto, nor any of their respective officers, directors or employees, shall be construed to be the agent, employee or the representative of the other. This Agreement is not intended to and shall not be so construed as to create any independent rights in any students nor include students as parties hereto. The Parties have not and did not intend to create any enforceable rights of any third party under this Agreement.

10. Compliance with local and federal laws – Both parties agree to comply with all federal, state, and local laws applicable to this MOU. The Parties shall not discriminate against any person or group of persons on the basis of race, color, creed, sex, age, national origin, ancestry, religion, marital status, disability, sexual orientation, gender identity or expression, pregnancy, genetic information, domestic partnership or civil union status, atypical hereditary cellular or blood trait, AIDS and/or HIV status, service in the Armed Forces of the United States, status as a disabled veteran or as a veteran of the Vietnam era or any other protected category under Federal or State of New Jersey law.

11. Compliance with Board Policies and Procedures - Partner shall ensure that each worker(s), subcontractors(s), agent(s) and representative(s) assigned to a school location or to a project involving contact with children will comply with the Board's Conduct policy as well as all local, state and federal laws and regulations, including those related to public health. Partner also agrees to abide by any safety regulations, executive orders and/or state mandates that may be issued by any state or federal agency governing and/or relating to maintaining the public health and safety including, but not limited to, the use

of temperature checks, masks, gloves and social distancing. Should any of Partner's worker(s), subcontractors(s), agent(s) and/or representative(s) violate any Board policy or public health and safety policy, the Board retains the right to request and have Partner remove said worker(s), subcontractors(s), agent(s) and representative(s) from the school location and/or the program altogether.

12. No Warranties. Except as otherwise contained herein, each Party disclaims all warranties and representations, either express or implied, with respect to its programs, courses and/or services to be performed hereunder.

13. Enforcement. In the event that any provision of this Agreement shall, for any reason, be determined to be invalid, illegal, or unenforceable in any respect, all other provisions of the Agreement shall remain in full force and effect. It is understood and agreed that nothing which is contained in this Agreement shall be construed as a waiver on the part of the Parties, or of any right which is not explicitly waived in this Agreement.

14. Force Majeure. If the performance of any obligation under this Agreement on the part of either Party should be prevented or delayed by an event of force majeure beyond its reasonable control, including but not limited to acts of war, revolution, insurrection, terrorism, civil unrest, strikes or work stoppages, fire, flood, earthquake or other natural disaster, then the affected Party's duty to perform its obligations under this Agreement shall be excused as reasonably required or justified by the circumstances, and this Agreement may be terminated upon the written request of either Party.

15. Survival. Any provisions of this Agreement, which by their nature extend beyond expiration or termination shall survive such expiration or termination.

16. Modifications - This MOU may only be amended or modified by mutual written consent of the parties.

17. Notices. All notices, consents, demands and other communications between the Parties under or regarding this Agreement shall be in writing (which includes facsimile) and shall be sent to the recipient's address set forth above to the attention of the signatories below.

18. Counterparts. This Agreement may be executed in any number of original, facsimile or pdf counterparts. Each such counterpart shall for all purposes be deemed an original.

19. Entire Agreement. This Agreement constitutes the entire understanding between the Parties regarding this matter and merges all prior discussions. There are no representations, warranties or promises not expressly set forth in this Agreement. This Agreement may not be modified, amended or renewed except by writing, signed by both Parties.

IN WITNESS WHEREOF, Partner has caused these Certifications, Representations and Special Conditions to be signed by its authorized officer.

NEW JERSEY INSTITUTE OF TECHNOLOGY

NEWARK BOARD OF EDUCATION

By: _____
Print Name: Atam Dhawan. Ph.D.
Title: Interim Provost & Sr. Exec. Vice President

By: _____
Print name: Dawn Haynes
Title: Board President

EXHIBIT A
SCOPE OF WORK

I. COLLEGE BOUND

A. BACKGROUND

NJ College Bound began in 1986 to address the low attendance rate of Newark Board of Education students and was funded through the office of the Secretary of Higher Education (NJOSHE). NJ GEAR UP was added in 1998 through the USDOE to provide additional support services. The UBELL program began in 1999 to address the growing population of ELL's at two of the NJGU/CB high schools, Barringer and East Side.

B. ROLES & RESPONSIBILITIES

Specific support from NBOE that is needed includes a commitment to encourage and recommend students in order to achieve the enrollment of the targeted number of students per grade level and school; direct access to students to share information and provide services, access to individual student data (class schedules, reports cards, assessment scores, etc.); and coordination of activities where the NJGU/CB/UBELL program can provide support at individual schools. Further details include the designation of an official NBOE contact per school with the authority to facilitate support by **September 15th** of each year as listed below:

- Encouragement refers to allowing the distribution and sharing of program materials as supplied on individual school sites as well as on individual school websites to NBOE staff, students and parents. The expectation is that this process will occur no later than **September 15th** of each year.
- Recommendation relates to providing a list of potential students per grade level that matches the required program recruitment goals by **October 15th** of each year.
- Direct access support allows the authorization to provide onsite student services during an agreed upon day and or afterschool period no later than the last week of **September of each year**. The type of services includes recruitment visits, counseling, mentoring, tutoring, academic presentation support, and other pre-college preparatory services required by the grant or events held by the school or district that the program may provide assistance.
- Coordination of activities requires the implementation of the 3 previous support areas described above between the program and NBOE contacts.

Current NBOE schools served by NJGU/CB/UBELL are:

NJGU/CB/UBELL TARGET SCHOOLS	
Middle Schools (Programs Offered)	High Schools (Programs Offered)
Belmont Runyon Middle School (NJGU/CB)	Barringer High School (NJGU/CB/UBELL)
Hawkins Middle School (NJGU/CB)	Central High School (NJGU/CB)

Lafayette Street Middle School (NJGU/CB)	East Side High School (NJGU/CB/UBELL)
Rafael Hernandez School (NJGU/CB)	Weequahic High School (NJGU/CB)
Ridge Street Middle School (NJGU/CB)	
Sussex Ave Middle School (NJGU/CB)	
Wilson Ave Middle School (NJGU/CB)	

NJGUCB is required to serve 585 students and UBELL serves 65 as indicated below.

Grade Levels	NJGUCB	UBELL
6 (completed)	40	NA
7	64	NA
8	88	13(completed)
9	100	13
10	121	13
11	92	13
12	80	13
	585	65

C. DATA MANAGEMENT

PLAN Unless the parties otherwise agree:

- NJIT GEAR UP/College Bound (“NJ GU/CB”) will provide a secured list by password protected USB in person or secure web portal that includes the student’s names, grade, school, school ID in an Excel format and any other pertinent information required by NBOE to facilitate the requests.
- NBOE will provide requested information in an Excel format on the password protected USB or by secured portal.
- Information received from NBOE will be kept on the secured desktop of the NJ GU/CB Technical Assistant for review and entry into the official NJ GU/CB supplied Access database.
- The USB will be kept in a secured location by the Technical Assistant on NJIT campus. A back-up copy of the USB will also be kept in the office of the NJ GU/CB Program Director.

Description of the Data

NJIT requests for each individual, participating student:

- Academic data such as report cards and other used to determine subject mastery.
- Standardized test data such as NJSLA (or equivalent) for 8th grade students, NJSLA (or equivalent) for 11th grade students or any other local and state required assessments.
- College Bound test data such as ACT, SAT, PSAT or other equivalent exam used to measure college bound readiness.

Timing and Frequency

Academic data: at the end of each marking period and annually by June 30th.

Standardized test data: as soon as available (e.g. March, June and November as may be applicable).

College bound test data: as soon as available (e.g. October, December, March and June as may be applicable).

Use of Data

The data will be compiled into the NJ GU/CB database. The data will be used for reporting baseline and program impact, promoting effectiveness of program efforts for recruitment and creating and modifying the program's student services as part of the academic support efforts. The data will also be transmitted by secure protocol to the NJ GEAR UP/College Bound State Project Director as required by the funding grant(s). The data submitted by NJIT will be combined with other NJ GEAR UP/College Bound sites for reporting the collective success of the multi-site program on an aggregate basis.

II. TRIO PROGRAMS

A. BACKGROUND

The **Talent Search** program identifies and assists individuals between the 6th and 12th grades, from disadvantaged backgrounds who have the potential to succeed in higher education. The program provides academic, career, and financial aid counseling to its participants and encourages them to graduate from high school, enter college or trade school and graduate from a post-secondary institution within 6 years.

Talent Search was established in Newark at New Jersey Institute of Technology in 1992. It provides services for 728 students annually. Any student that lives and attends school in Newark is eligible to participate. However, the grant was written to focus resources on target schools. These target schools are a priority for the grant and include:

TALENT SEARCH TARGET SCHOOLS	
Middle Schools	High Schools
Camden Street School	Barringer High School
Eagle Academy	Central High School
Luis Munoz Marin Middle School	East Side High School

	Malcom X. Shabazz High School
	Newark Vocational High School
	Weequahic High School
	West Side High School

A Talent Search counselor is assigned to each of the target schools and visits their assigned schools on a weekly basis to provide support and services to students and staff. Students are also encouraged to visit the NJIT campus for enrichment activities afterschool and on Saturdays. The established program services are intended to: 1.) Improve the high school graduation rate, 2.) Increase the college enrollment rate, and 3.) Increase the college completion rate for students at our target schools. Such services include but are not limited to:

- Tutoring (Afterschool and Saturdays)
- Test Prep Classes (NJSLA, SAT)
- Career Exploration
- College Tours & Field Trips
- Academic Counseling
- Assessments
- Financial Aid Form Completion and Submission
- Financial Literacy & Economic Literacy for Students and Parents
- Specialized Workshops (College Essay Writing, Study Skills, Decision Making, etc.)

The NJIT Talent Search Program also hosts a number of Saturday enrichment classes such as NJSLA and SAT Prep, MITES (Math, Information, Technology, Engineering and Science) Mentoring, Masterminds -Engineering Exploration, Leadership Academy and Robotics. During the summer the program hosts a four-week summer program that provides academic, cultural and recreational activities.

Similar to the Talent Search Program, **Upward Bound** provides fundamental support to participants in their preparation for college entrance. However, Upward Bound services are more intense and targeted. The program provides concentrated, focused services to students that are rising 9th graders through 12th grade. The program provides opportunities for participants to succeed in high school and ultimately in their higher education pursuits. Upward Bound serves: high school students from low-income families; and from families in which neither parent holds a bachelor's degree. The goal of Upward Bound is to **1.)** Increase the rate at which participants complete secondary education and **2.)** Increase the rate at which students enroll in and graduate from institutions of postsecondary education.

The Upward Bound Program was established at New Jersey Institute of Technology in the late 1980s. Projects are required to provide academic instruction in mathematics, laboratory sciences, composition, literature, and foreign languages to complement what is being learned in school.

Additional services and activities offered by the Upward Bound Program include:

- Six week summer program (4 weeks of which are residential in dorms on the NJIT campus)
- Saturday Core Course Enrichment
- Tutoring (afterschool and Saturday)
- College Tours and Field Trips
- Cultural Enrichment Activities
- Academic Counseling
- Career Exploration

- Mentoring
- Work-study Program
- Financial Aid Form Completion and Submission

B. ROLES & RESPONSIBILITIES

New Jersey Institute of Technology is fortunate to host two Upward Bound Programs. Each program serves a set of target schools. The UB1 program is required to service 113 students per year and the UB II program is required to service 60 students per year. Note the chart below:

UPWARD BOUND TARGET SCHOOLS	
UB I - Target Schools	UB II – Target Schools
Barringer Arts High School*	Barringer Steam High School*
Central High School	East Side High School
Malcolm X Shabazz High School	Newark Vocational High School
West Side High School	Weequahic High School

Our programs require that NBOE provide:

- Access to students via classroom presentations, individual 1on 1 sessions, and small group sessions, typically between the hours of 8:00am and 12:00 noon.
- Space to operate, typically within the guidance office at each school.
- Assistance with recruiting students. Initial goal is to enroll 10 students from each grade level.
- Permission to advertise and promote program materials and activities within the school utilizing pin boards, websites, school announcements, etc.
- Permission to conduct activities within the school in addition to 1 on 1 activities, such as College Application Push Day, Financial Aid Workshops, Career Day, STEM Day, etc.
- Provide data as specified in the Data Management Plan below.

C. DATA MANAGEMENT PLAN

Unless the parties otherwise agree:

- NJIT TRIO Programs (Talent Search & Upward Bound) will provide a secured list by password protected USB in person or by a secure web portal that includes the student's names, grade, school, school ID in an Excel format and any other pertinent information required by NBOE to facilitate the requests.
- NBOE will provide requested information in an Excel format on a password protected USB or by secured portal.

- Information received from NBOE will be kept on the secured desktop of the Talent Search & Upward Bound Administrative Assistant for review and entry into the official Talent Search and Upward Bound Access database.
- The USB will be kept in a secured location by the Administrative Assistant on the NJIT campus. A back-up copy of the USB will also be kept in the office of the Director of TRIO Programs.

Description of the Data:

NJIT requests for each individual, participating student:

- Academic data such as report cards, transcripts and other data used to determine subject mastery. Standardized test data such as the New Jersey Student Learning Assessment (NJSLA), or equivalent for 6th through 12th grade students, or any other local and state required assessments.
- Additional test data such as ACT, SAT, PSAT or other equivalent exams used to measure college readiness.
- Results from the MAP Growth Assessment or other district assessments
- Access to ALEKS
- Post-Secondary Enrollment of identified TRIO students
- Post-Secondary Attainment of identified TRIO students

NJIT requests data for Annual Performance Reporting and Grant Completion (for target schools and District)

- Number of students with a 2.5 or higher for each of our target schools and district
- Number of students that are enrolled in each of the following math courses: Algebra 1, Geometry, Algebra2 and Pre-calculus and have passed with a C or better.
- Number of students that take 4 years of math up to and including Pre-calculus
- Number of students that are enrolled in each of the following science courses: Environmental Science, Biology, Chemistry and Physics, and have passed with a C or better.
- Number of students that take 4 years of science up to and including Physics
- Persistence rates from one grade level to the next at each of our target schools may require examination of enrollment rosters from year to year.
- Graduation rate - Graduation rate broken down by various graduation alternatives beyond a regular diploma.
- Post-Secondary Enrollment for our target schools and district
- Enrollment Rosters for each of our target schools by grade
- Post-Secondary Attainment for our target schools and district
- Standardized test scores for our target schools and district

Timing and Frequency

- Individual student academic data: at the end of each marking period and annually by June 30th and or August 15th.
- Standardized test data: as soon as available: between June 30th and August 30th
- TRIO APR and Grant Data – between June 30th and August 30th.

Use of Data

- Data will be used to assess students' academic needs and develop services specific to student needs, such as, but not limited to tutoring.
- Data will be used to complete our Annual Performance Reports (APR)
- Data will be used to aid the department in writing for our renewal grants that provides services to Newark Board of Education students.