

**THE MECOSTA-OSCEOLA INTERMEDIATE SCHOOL DISTRICT
DEPENDENT CARE REIMBURSEMENT PLAN**

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**THE MECOSTA-OSCEOLA INTERMEDIATE SCHOOL DISTRICT
DEPENDENT CARE ASSISTANCE PLAN**

1.0 PURPOSE OF PLAN

1.1 Establishment of Plan. The Mecosta-Osceola Intermediate School District (the “Employer”), with this instrument, establishes this dependent care assistance flexible spending account plan as a separate plan document, ancillary to the Second Restated Mecosta-Osceola Intermediate School District Cafeteria Plan, which will be known as the “Mecosta-Osceola Intermediate School District Dependent Care Reimbursement Plan” and for convenience shall be referred to in this document as the “Plan.”

1.2. Intent of the Plan. The Plan is intended to meet the requirements of a dependent care assistance flexible spending account plan under Sections 125 and 129 of the Internal Revenue Code of 1986, as amended (the “Code”) and ERISA (to the extent ERISA applies to this Plan) and is to be interpreted in a manner consistent with the requirements of those laws.

1.3 Purpose of the Plan. The primary purpose of the Plan is to attract and retain qualified personnel by allowing them to contribute toward the cost of the benefits described in this Plan on a pre-tax basis, under a salary reduction agreement in accordance with the requirements of Sections 125 and 129 of the Code.

1.4 Plan not an Employment Agreement. This Plan is not an employment agreement between any Participant and the Employer, nor does this Plan give any Participant any right to be retained as an employee of the Employer.

1.5 Rights of Employees. The rights of Employees under the Plan are hereby acknowledged to be legally enforceable. Except as may be permitted under applicable law, the Plan is maintained for the exclusive benefit of Employees of the Employer who are eligible to be participants in the Plan. The Plan has been established with the intention of being maintained for an indefinite period of time.

2.0 DEFINITIONS

The following definitions apply to this Plan and all documents and instruments related to this Plan, where the first letter of each word is capitalized; otherwise, words not so presented will have the meanings associated with general usage.

2.1 Administrator -- The Employer, a committee created by the Board of the Employer, or such other person or entity as may be engaged from time to time by the Employer to supervise the administration of the Plan.

2.2 Benefits -- The amounts paid to Participants from the Dependent Care Reimbursement Account maintained under the Plan as reimbursements for Eligible Expenses paid or incurred by a Participant.

2.3 Board of Education or Board -- The duly constituted Board of Education of the Employer, according to the laws of the State of Michigan and the Employer's governing instruments.

2.4 Cafeteria Plan -- The Second Restated Mecosta-Osceola Intermediate School District Cafeteria Plan, being the cafeteria plan maintained by the Employer under Section 125 of the Code. The provisions of the Cafeteria Plan are incorporated by reference into this Plan. Defined terms shall have the same meanings in this Plan and the Cafeteria Plan, except this Plan will control the meaning of defined terms that are defined differently in this Plan where those terms are used in this Plan.

2.5 Code -- The Internal Revenue Code of 1986, as amended.

2.6 Collective Bargaining Agreement -- A collective bargaining agreement between the Employer and Employees who are members of a relevant bargaining unit.

2.7 Dependent Care Reimbursement Account -- The account maintained by the Administrator for each Participant into which amounts from the reduction of the Participant's Earned Income are set aside to pay for Eligible Expenses.

2.8 Earned Income -- All income derived from wages, salaries, tips, self-employment and other Employee compensation (such as disability benefits), as provided in Section 32(c)(2) of the Code, but, further, such term shall not include any amounts paid or incurred by the Employer for dependent care assistance to a Participant.

2.9 Effective Date -- The Effective Date of this Plan is July 1, 2020.

2.10 Dependent -- A "Dependent" is either a "qualifying child" or a "qualifying relative." Generally, a "qualifying child" is: (a) a child (including stepchild, adopted child, or eligible foster child), or a sibling (or stepsibling) of the taxpayer, or a descendant of either; (b) has resided in the principal abode of the taxpayer for more than half of the relevant calendar year; (c) has not attained age 19 (or is a student who has not attained age 24 as of the end of the year); and (d) has not provided more than half of his or her support for that year. Generally, a "qualifying relative" is an individual who: (a) is a child (including stepchild, adopted child, or eligible foster child), a sibling (including stepsiblings), the taxpayer's father or mother or an ancestor of either of them, a stepparent, a niece or nephew, an aunt or uncle, certain in-laws of the taxpayer, or an individual, other than a spouse, who resides in the principal abode of the taxpayer and is a member of the household; (b) has gross income in the relevant calendar year not exceeding the exemption amount (Section 151(d) of the Code); (c) receives more than half of his or her support for the year from the taxpayer; and (d) is not a qualifying child of any other taxpayer for the calendar year.

2.11 Eligible Employee -- An Employee who has meet the eligibility requirements for participation in the Cafeteria Plan.

2.12 Eligible Expenses -- All Expenses eligible for reimbursement as Qualifying Services under this Plan that are incurred by a Participant and which are paid to a person who is not (a) a Dependent of the Participant, (b) the Participant's Spouse, or (c) a child of the Participant under the age of 19 years. Only those Expenses incurred to enable the Participant to work, or the Spouse of the Participant to work if the Participant is married, are Eligible Expenses. If the Participant's Spouse is not employed outside the home, Expenses will not be Eligible Expenses, unless the Spouse is a full-time Student or physically or mentally incapable of self-care.

2.13 Employee -- Any person who is classified as an "Employee" under the terms of the Cafeteria Plan.

2.14 Employer -- The Mecosta-Osceola Intermediate School District, a governmental entity and public school district organized and existing under the laws of the State of Michigan.

2.15 Expenses -- Expenses incurred for Qualifying Services or for the cost of sending an Eligible Dependent of the Participant to a Qualifying Day Care Center.

2.16 Participant -- An Eligible Employee who has satisfied the requirements for participation in this Plan contained in Section 3.0 and who has elected to participate in this Plan.

2.17 Plan -- This Dependent Care Assistance Plan under Section 129 of the Code.

2.18 Plan Year -- As to all Eligible Employees other than Employees who are members of the Michigan Education Association bargaining unit, the Plan Year is the 12 month period beginning July 1 and ending the next succeeding June 30. As to Eligible Employees who are members of the Michigan Education Association bargaining unit, the Plan Year is the calendar year.

2.19 Qualifying Day Care Center -- A day care center which (a) complies with all applicable laws and regulations of the state and town, city or village in which it is located, (b) provides care for more than six individuals (other than individuals who reside at the day care center) and (c) receives a fee, payment or grant for services for any of the individuals to whom it provides services (regardless of whether such facility is operated for a profit).

2.20 Qualifying Services -- Services performed:

(a) in the home of the Participant; or

(b) outside the home of the Participant, for (i) the care of an Dependent of the Participant who is a qualifying child under the age of 13 years, (ii) the care of any other Dependent of the Participant (determined without regard to Section 152(b)(1), (b)(2) and (d)(1)(B) Code) who regularly spends at least eight (8) hours per day in the Participant's household who is physically or mentally incapable of caring for himself or herself and who has the same principal place of

abode as the Participant for more than one-half of the taxable year, or (iii) the care of the spouse of the Participant if the spouse is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the Participant for more than one-half of the taxable year.

Notwithstanding the foregoing, in the case of divorced or separated parents, a child shall, as provided in Code § 21(e)(5), be treated as a Dependent of the custodial parent (within the meaning of Code § 152(e)) and shall not be treated as a Dependent with respect to the noncustodial parent.

2.21 Services -- The services performed which are considered to be employment related under Section 21 of the Code to enable a Participant or his or her Spouse to remain gainfully employed and which are related to the care of one or more Dependents.

2.22 Spouse -- The spouse of a Participant; but shall not include an individual legally separated from the Participant under a decree of legal separation.

2.23 Student -- An individual who, during each of five calendar months during a Plan Year, is a full-time student at an educational Institution.

3.0 ELIGIBILITY

3.1 Electing Coverage. An Eligible Employee may become a Participant in this Plan for a Plan Year by electing Benefits through a written election filed during the Election Period for the Plan Year, in accordance with the terms of the Cafeteria Plan. An election to receive benefits under this Plan may not be changed or revoked by the Participant during the Plan Year, except as permitted under Section 4.3 of the Cafeteria Plan, or as otherwise permitted by applicable sections of the Code, and regulations under the Code.

3.2 Termination of Coverage. A Participant who ceases to be an Eligible Employee shall no longer be eligible to receive Benefits under the Plan as of the date the Employee ceases to satisfy the requirements for eligibility. Participation in the Plan may thereafter be renewed upon satisfaction of the requirements contained in Section 3.1.

3.3 Funding. The cost of Benefits under this Plan will be paid by Participants through Salary Reduction Agreements with the Employer, as described in the Cafeteria Plan.

4.0 BENEFITS

4.1 Entitlement to Reimbursement. Subject to the limitations of Section 5, a Participant will be entitled to Benefits under this Plan with regard to a Plan Year for any Eligible Expenses that arises during that Plan Year. Eligible Expenses will be considered incurred when the services giving rise to Eligible Expenses are rendered, regardless of when the Participant is formally billed, charged or pays for an Expense.

4.2 Claims for Benefits. If a Participant wants to receive a Benefit under the Plan for Eligible Expenses, the Participant must submit to the Administrator a completed claim form on a form prescribed by the Administrator, along with proof of payment by the Participant of the Eligible Expense. The Participant must provide all of the information requested by the claim form, to the full satisfaction of the Administrator. The Administrator may establish procedures to facilitate the determination of eligibility for Benefits and to expedite the payment of Benefits. Participants are responsible for assuring that all information on record with the Administrator about the Participant, the Participant's Dependents and Expenses claimed by the Participant are accurate, complete and up-to-date.

If a claim is denied, the Participant may appeal the denial under the procedures that are set forth in the Cafeteria Plan.

4.3 Payment of Claims. Within a reasonable time after receiving the claim form described in Section 4.2, the Administrator will notify the Participant whether the claim has been accepted or denied. If a claim is accepted, payments from the Participant's Dependent Care Reimbursement Account will be made directly to the Participant. No payments will be made from the Participant's Dependent Care Reimbursement Account to the provider of the Qualifying Services giving rise to the claim.

4.4 Excess Claims. The reimbursement of a Participant's Eligible Expenses is limited to amounts in the Participant's Dependent Care Reimbursement Account. If a claim by a Participant exceeds the amount available in the Participant's Dependent Care Reimbursement Account, the excess claim will be held in suspense until sufficient amounts have been contributed to the Participant's Dependent Care Reimbursement Account, provided the claim otherwise qualifies for payment of a Benefit.

4.5 Cessation of Benefits. No Benefits will be paid to a Participant after the date that the Participant ceases to be an Eligible Employee. Requests for Benefits for Eligible Expenses incurred before a Participant ceases to be an Eligible Employee may be submitted through the sixtieth (60th) day following the date upon which the Participant ceased to be an Eligible Employee.

4.6 End of Year Claims. A Participant may submit claims for reimbursement of Eligible Expenses incurred within a Plan Year until the last day of the first month following the end of that Plan Year. Any balance remaining in a Participant's Dependent Care Reimbursement Account after the payment of all proper claims submitted with respect to a Plan Year on or before the last day of the first month following the end the Plan Year will be deemed forfeited.

4.7 Claims in Respect of a Deceased Participant. If a Participant dies during a Plan Year, a legal representative of the Participant may submit claims for Eligible Expenses incurred by the Participant before the Participant's death. All such claims must be submitted within the 60-day period that begins as of the Participant's date of death. Any amounts remaining credited to the Participant's Dependent Care Reimbursement Account after the disposition of all such claims submitted by the Participant's legal representative within the 60-day period will be deemed forfeited.

5.0 LIMITATIONS ON BENEFITS

5.1 Dollar Limit on Benefits. A Participant may not receive a Benefit for Eligible Expenses incurred in any taxable year of the Participant in excess of \$5,000 (\$2,500 for married Participants who file separate returns). Furthermore, such Benefit may not exceed for any given month the lesser of (a) the Participant's Earned Income for that month, or (b) the Earned Income of the Spouse for that month.

5.2 Limit for Spouse not Employed Outside Home. For purposes of Section 5.1, a Spouse who is not employed outside the home, but who is either incapacitated or a Student, will be deemed to have Earned Income as provided by Code Section 129(b)(2), being: (a) \$3,000 (\$250 per month), if there is one Eligible Dependent, and (b) \$6,000 (\$500 per month), if there is more than one Eligible Dependent.

5.3 Modification of Elections. The Administrator is authorized to modify elections of Participants under this Plan to comply with any legal requirements relating to the Plan. All such modifications will be implemented on a uniform basis as to similarly situated Participants.

6.0 PLAN ADMINISTRATION

6.1 Administrator. Except for responsibilities reserved to the Employer, the administration of this Plan will be under the supervision of the Administrator. To the extent ERISA applies to this Plan, the Administrator will be the named fiduciary of the Plan for purposes of ERISA with the discretionary authority to control and manage the operation and administration of this Plan. The Administrator will have full discretionary power to administer the Plan in all of its details, subject to applicable law, including without limitation:

- A. Interpretation of the terms and provisions of the Plan; provided that the Administrator may not amend or modify the terms of the Plan.
- B. Making and enforcing those written rules and regulations, and promulgating those forms, which it deems necessary for the efficient administration of the Plan.
- C. Determining the rights under the Plan of any Participant.
- D. Paying expenses incident to the administration of the Plan.
- E. Conducting the appeal procedure set forth in Section 6.3 of the Cafeteria Plan.
- F. Delegating specific responsibilities for the operation and administration of the Plan to any employees of the Employer or independent agents as it deems advisable.
- G. Maintaining records and accounts pertaining to the Plan.

- H. Appointing individuals to assist in the administration of the Plan and any other agents it deems advisable, including legal and actuarial counsel.

6.2 Account Balances; Statements. The Administrator will periodically during each Plan Year submit to each Participant statements of their Dependent Reimbursement Account Balances. In addition, the Administrator will provide each Participant a year-end statement of the amount of Benefits they received during the previous Plan Year. This year-end statement will be furnished to the Participant by the last day of the first month following the end of such Plan Year.

7.0 AMENDMENT AND TERMINATION OF PLAN

7.1 Amendment. This Plan is intended to be maintained indefinitely. Notwithstanding, the Employer may amend the Plan to comply with applicable law and regulations, provided that such an amendment does not cause the Plan to cease being maintained for the exclusive benefit of Participants, alter the requirements for eligibility to participate or benefit levels, reduce or eliminate a Participant's right to receive a benefit which the Participant already has a present right to receive, or increase the duties of the Administrator, unless the Administrator otherwise agrees. An amendment adopted by the Employer for the purpose of complying with applicable law and regulations shall be submitted by written notice to the appropriate representatives of all bargaining units whose members are eligible to participate in this Plan, at least 30 days before such amendment is to become effective. Any proposed amendment that will affect eligibility to participate in this Plan or benefit levels will not become effective without the consent of the bargaining units whose members are eligible to participate in the Plan. The Administrator will not be bound to the terms of any amendment until a true and accurate copy of the duly signed amendment has been delivered to the Administrator by the Employer.

7.2 Termination; Discontinuance of Benefits. Unless prohibited by applicable law, and with the consent of bargaining units whose members are eligible to participate in this Plan, the Employer may terminate or partially terminate the Plan at any time. If the Plan is terminated or partially terminated for any reason, amounts credited to accounts maintained under the Plan for Participants will continue to be applied for the exclusive benefit of the Participants. The termination of the Plan will not reduce or eliminate Participants' rights to reduce Salary earned before the date of the termination, nor affect the right of Participants to have Benefits paid under the provision of the Plan, but only to the extent that there are amounts credited to their accounts available for that purpose. Participants will not have the right to reduce, under this Plan, Salary earned after the date of the termination. Notice of a discontinuance or termination is not required except by the terms of any Policy, Benefit Plan or by law.

8.0 MISCELLANEOUS

8.1 Uniform Rules. The terms and conditions of this Plan and all rules promulgated by the Administrator under authority granted by this Plan will be interpreted and enforced in a uniform manner as to all similarly situated persons, and no action on the part of the Administrator or the Employer will discriminate in favor of highly compensated employees.

8.2 Construction. The Employer's intent and purpose in adopting this Plan is to establish a plan of welfare benefits consistent with relevant sections of the Internal Revenue Code. The Employer intends to comply fully with statutes and regulations governing wages, compensation, and fringe employment benefits. All questions arising in the construction and administration of this Plan must be resolved accordingly. This Plan is to be construed under the laws of the State of Michigan, except to the extent that the laws of the United States of America have superseded those state laws. The headings and subheadings in this Plan have been inserted for convenience of reference only and are not to be construed as a part of this Plan. If a provision of this Plan is invalid, that invalidity does not affect other Plan provisions.

8.3 Non-alienation of Benefits. Benefits payable under this Plan shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution or levy of any kind, either voluntary or involuntary, including any such liability which is for alimony or other payments for the support of a spouse or former spouse, or for any other relative of a Participant, before actually being received by the person entitled to the benefit under the terms of the Plan; and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or otherwise dispose of any right to benefits payable under this Plan will be void and of no effect as against the Plan, the Administrator or the Employer. The Employer shall not in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements or torts of any person entitled to benefits hereunder.

8.4 Counterparts. This instrument may be executed in any number of counterparts, each of which shall be deemed an original.

**MECOSTA-OSCEOLA INTERMEDIATE
SCHOOL DISTRICT**

Date: _____

By: _____

Its: _____