

2021 CAFETERIA PLAN AMENDMENT

ARTICLE 1 PREAMBLE

- 1.1 Adoption of Amendment. The Employer adopts this Amendment to implement provisions of the laws and other regulations and Notices issued by the IRS or DOL which affect the Plan, including CARES (Coronavirus Aid, Relief, and Economic Security Act), CAA (Consolidated Appropriations Act), and ARPA (American Rescue Plan Act) provisions; the provisions under IRS Notices 2020-29, 2021-15, and 2021-26; and Announcement 2021-7; and the DOL/IRS updates to the claims procedures and COBRA timelines (IRS Notice 2020-23 and EBSA Disaster Relief Notices 2020-01 and 2021-01).
- 1.2 Superseding of inconsistent provisions. This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment. The timeframes for application of provisions are as selected in Article 2, and, if appropriate, provisions only apply for the Plan Year selected.
- 1.3 Construction. Except as otherwise provided in this Amendment, any "Section" reference in this Amendment refers only to this Amendment and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment and does not relate to the Plan article, section, or other numbering designations.
- 1.4 Effect of restatement of Plan. If the Employer restates the Plan then this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated onto a plan document which incorporates these provisions).

ARTICLE 2 IDENTIFYING INFORMATION; EMPLOYER ELECTIONS

- 2.1 **Identifying information.**
 - A. Name of Employer: Durham Public Schools
 - B. Name of Plan: Durham Public Schools Flexible Benefit Plan
- 2.2 **Carryover.** The Plan adopts the carryover provisions and/or the new adjustment for the carryover of unused benefits, contributions or amounts to be used in the health and dependent care flexible spending accounts as follows:

Health FSA for:
 - Plan year ending in 2020 into plan year ending in 2021.
 - Plan year ending in 2021 into plan year ending in 2022.
Dependent Care FSA for:
 - Plan year ending in 2020 into plan year ending in 2021.
 - Plan year ending in 2021 into plan year ending in 2022.
- 2.3 **Effective Date.** This Amendment is effective as of January 1, 2020.

ARTICLE 3
FLEXIBLE SPENDING ACCOUNT CARRYOVER

3.1 **Application.** A Participant in the Health Flexible Spending Account may carry over unused amounts for a Plan Year beginning on or after January 1, 2020 to the immediately following Plan Year. For the 2020 and 2021 Plan Years, as selected, a Participant in the Health or Dependent Care Flexible Spending Accounts may carry over unused amounts remaining at the end of one Plan Year to the immediately following Plan Year (ending in 2022 for 2021 amounts). Unless such Health Flexible Spending Account is a limited purpose flexible spending account, a Participant will not be permitted to contribute to a Health Savings Account (HSA) during the extended period. A Participant may change from a general-purpose health FSA to a limited purpose FSA to be covered by an HSA. A Participant may also move from a limited purpose to a general-purpose health FSA. However, only expenses incurred after the date of the change can be reimbursed by the applicable FSA.

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This Amendment has been executed this _____ day of _____, 20_____.

Name of Plan: _____

Name of Employer: _____

By: _____
EMPLOYER

**SUMMARY OF MATERIAL MODIFICATIONS
for the**

**Durham Public Schools
Flexible Benefit Plan**

**I
INTRODUCTION**

This is a Summary of Material Modifications regarding the Flexible Benefit Plan ("Plan"). This is merely a summary of the most important changes to the Plan and information contained in the Summary Plan Description ("SPD") previously provided to you. It supplements and amends that SPD so you should retain a copy of this document with your copy of the SPD. If you have any questions, contact the Administrator. If there is any discrepancy between the terms of the Plan, as modified, and this Summary of Material Modifications, the provisions of the Plan will control.

**II
SUMMARY OF CHANGES**

This amendment is effective January 1, 2020.

For the 2020 and 2021 plan year, you may carryover amounts that are left in your Health or Dependent Care Flexible Spending Accounts. This means that amounts you did not use during the 2020 Plan Year can be carried over to the 2021 Plan Year and used for expenses incurred in the 2021 Plan Year. Additionally, amounts you did not use during the 2021 Plan Year can be carried over to the 2022 Plan Year and used for expenses incurred in the 2022 Plan Year. Unless such Health Flexible Spending Account is a limited purpose flexible spending account, a Participant will not be permitted to contribute to a Health Savings Account (HSA) during the extended period.

CERTIFICATE OF ADOPTING RESOLUTION

The undersigned authorized representative of _____ (the Employer) hereby certifies that the following resolution was duly adopted by Employer on _____, and that such resolution has not been modified or rescinded as of the date hereof;

RESOLVED, this Amendment to the _____ Plan is hereby approved and adopted and that an authorized representative of the Employer is hereby authorized and directed to execute and deliver to the Plan Administrator the Amendment and to take any and all actions as it may deem necessary to effectuate this resolution.

The undersigned further certifies that attached hereto is a copy of the Amendment approved and adopted in the foregoing resolution.

Date: _____

Signed: _____

[print name/title]