

**DEPARTMENT OF EDUCATION
STATE OF SOUTH DAKOTA
MEMORANDUM OF UNDERSTANDING
BETWEEN**

(**School District Name**) (**Department of Education**)
() (**Office of Finance & Management**)
() **AND** (**800 Governors Drive**)
(**Address**) (**Pierre, SD 57501-2291**)
Attn: Rochelle Kenzy

WHEREAS, the Department of Education, hereinafter referred to as “The State”, has contracted with Apex Learning, which is a provider of online Advanced Placement courses, to offer such courses to South Dakota Students;

WHEREAS, the School District, hereinafter referred to as “The District”, desires to participate in a license agreement and enroll students in online Advanced Placement courses with Apex Learning,

Now, therefore, both parties mutually agree to the following terms and conditions:

I. Terms and Conditions:

A. Term

This agreement shall commence August 16, 2010 and shall end August 12, 2011.

B. End User Sub license Agreement

Through a license agreement between the State and Apex Learning, the District is granted the right to access all Apex Advanced Placement Educational Products courseware and the online exam review located on Apex’s Web site, Apex’s Interface, and the schedule for access that Apex makes available generally to Apex Educational Product Users.

C. Responsibilities of the State

1. The State will contract with Apex Learning, for a license agreement for access rights by the District to all Apex Advanced Placement Educational Products courseware and the online exam review.
2. The State will reimburse Districts the \$300/ semester fee for students who successfully complete the Apex AP courses accessed via SDVS and receive a 3 or higher on the designated AP end-of-course exam. The State will not reimburse the district for any student who does not successfully complete a course, withdraws from a course or does not score a 3 or higher on the end-of-course exam.
3. Apex will credit 100% of the amount paid for an online course enrollment if written notice of a student withdrawal is received by Apex no later than 7:00 PM Pacific Time on the Friday before the course start date. After that period has passed, Apex will credit 80% of the amount paid for an online course enrollment if written notice of a student withdrawal is received by Apex no later than 7:00 PM Pacific Time on the 14th day of the course. After that period has passed, Apex will credit 20% of the amount paid for an online course enrollment if written notice of a student withdrawal is received by Apex no later than 7:00 PM Pacific Time on the 28th day of the course. No credits or refunds are available after the 28th day of a course.
4. The State will determine in all instances if a course requirement has not been fulfilled.

D. Responsibilities of the School District

1. The School District will provide Purchase Order information to Apex upon registration for an Apex AP course. The school district is responsible for all textbook(s) costs incurred by the student while enrolled in Advanced Placement courses with Apex Learning. Textbooks are to be purchased directly from Apex Learning. *Districts may*

require students to pre-pay the district for course fees. Apex, however, will only accept purchase order payment from School District.

2. If a student does not successfully complete an Advanced Placement course, score a 3 or higher on the designated end-of-course exam or withdraws, the School District may not claim student course fees for reimbursement.
3. Students are expected to maintain the highest standard of academic integrity while taking an AP course through Apex. Cheating and plagiarism are serious matters and will result in disciplinary action taken by the Apex online instructor. A student caught cheating may receive a failing grade and/or be denied access to Apex Online AP courses. If a student is caught cheating, the Department of Education will not reimburse course fee for that student.
4. The School District will submit a written form to the Department of Education, indicating student's name, course, and exam score on or before August 9, 2011 to receive reimbursement for \$300/semester course fee. No reimbursements will be issued for claims received after August 9, 2011.

II. Payment

This provision sets forth the terms and conditions for payment of the services provided to the District. The District is deemed obligated for all initial costs payable to Apex as described above in section I.D.1. The State will reimburse Districts for Advance Placement course semester fees (not to exceed \$300 per semester) with the exception as described in section I.C.2., I.D.1., I.D.2, I.D.3 and I.D 4 above.

III. Termination Provision

This agreement can be terminated upon thirty (30) days written notice by either party and may be terminated for cause by the State at any time with or without notice.

IV. Amendment Provision

This agreement contains the entire agreement between the parties, and is subject to and will be construed under the laws of the State of South Dakota, and may be amended only in writing, signed by both parties.

V. Indemnification Clause

The District agrees to hold harmless and indemnify the State of South Dakota, its officers, agents and employees, from and against any and all actions, suits, damages, liability or other proceedings which may arise as a result of performing services hereunder. This section does not require the District to be responsible for or defend against claims or damages arising solely from acts or omissions of the State its officers or employees.

VI. Americans with Disabilities Act

The District agrees to provide services in compliance with the Americans With Disabilities Act of 1990.

VII. Default Provision

This agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. This agreement will be terminated by the State if the Legislature fails to appropriate funds, or grant expenditure authority. Termination for this reason is not a default by the State nor does it give rise to a claim against the State.

In witness hereto the parties signify their agreement by signature affixed below:

School District Authorized Signature

Date

Department of Education Authorized Signature

Date