



**AT-WILL EMPLOYMENT AGREEMENT**  
**Between**  
**EAST BAY INNOVATION ACADEMY & MICHELLE CHO**

THIS EMPLOYMENT AGREEMENT (“Agreement”) is entered into by and between the above-named employee (“Employee”) and the Governing Board (“Board”) of East Bay Innovation Academy (“EBIA”), a California nonprofit public benefit corporation operating public charter schools approved by the Oakland Unified School District (“District”). The Board desires to hire employees who will assist EBIA in implementing its purposes, policies, and procedures, and in achieving the goals and meeting the requirements of EBIA’s charter. The parties recognize that EBIA is not governed by the provisions of the California Education Code, except as expressly set forth in the Charter Schools Act of 1992.

WHEREAS, EBIA and the Employee wish to enter into an employment relationship under the conditions set forth herein, the parties hereby agree as follows:

**A. STATUTORY PROVISIONS RELATING TO CHARTER SCHOOL EMPLOYMENT**

1. EBIA operates charter schools that have been established pursuant to the Charter Schools Act of 1992, Education Code section 47600, *et seq.*, and which have been duly approved by the District, according to the laws of the State of California.
2. Pursuant to Education Code section 47604, EBIA has elected to be formed and to operate as a nonprofit public benefit corporation pursuant to the Non-profit Public Benefit Corporation Law of California (Part 2, commencing with section 5110 *et seq.* of the Corporations Code). As such, EBIA is considered a separate legal entity from the District, which granted the charters. The District shall not be liable for any debts and obligations of EBIA, and the employee signing below expressly recognizes that he/she is being employed by EBIA and not the District.
3. Pursuant to Education Code section 47610, EBIA must comply with all of the provisions set forth in its operative charters, but is otherwise exempt from the laws governing school districts except as specified in Education Code section 47610.
4. EBIA shall be deemed the exclusive public school employer of the employees at EBIA for purposes of Government Code section 3540.1.

**B. EMPLOYMENT TERMS AND CONDITIONS**

1. **Duties**

The Employee shall work in the position of Executive Director. The Employee will perform such duties as EBIA may reasonably assign and the Employee will abide by all EBIA policies and procedures as adopted and amended from time to time. The

Employee further agrees to abide by the provisions of EBIA's charter. A copy of the job description for the above position is attached hereto as **Attachment A** and incorporated by reference herein. These duties may be amended from time to time in the sole discretion of EBIA.

2. **Work Schedule**

This position begins October 28, 2019 and is a year-round position. The employee will work remotely, with scheduled on-site work days. The minimum availability obligations for this full-time position shall be the hours the school site is open to students, unless other arrangements are made. While the Employee shall be available during this time period, the duties of this exempt position may require work on weekends, as well as before and after the regular work year or hours of the work day.

Subject to the at-will nature of employment as defined in Section C below, workdays for Employee shall be consistent with the applicable calendar of workdays for this position, which includes every weekday unless designated as holiday or paid time off in section 4, below.

The Employee will not render services in person or by electronic means, paid or otherwise, for any other person or entity during contracted work hours with EBIA.

3. **Compensation**

The annual compensation for this position shall be \$141,625, to be paid twice monthly, subject to all regular withholdings. The Employee's compensation may be prorated depending on whether the Employee remains employed, or in active work status, for the entire year. As an exempt employee, the Employee shall not be eligible to earn overtime. Employee will participate in the EBIA Annual Incentive Plan (AIP) as follows:

- Employee AIP bonus range is 2% of base salary, and will be awarded if employee attains established performance metrics, which will be annually drafted by Employee and annually approved by their manager.

The implementation of the EBIA Annual Incentive Plan is dependent on budget constraints in any given year.

4. **Holidays/Paid Time Off**

Employee receives twelve (12) national/California holidays (currently New Year's Day, Martin Luther King Day, President's Day, Cesar Chavez Day, Memorial Day, July 4, Labor Day, Veteran's Day, Thanksgiving and the day after, Christmas Eve and Day). No additional day is taken for holidays that fall during designated school breaks.

There will be an additional five (5) school site closure days per year, during school breaks, which will be paid days off for Employee. In addition, Employee accrues fifteen (15) days of Paid Time Off (PTO) per year (accrued monthly) and five (5) days of Sick Leave each year (front-loaded at the beginning of the fiscal year, July 1, and pro-rated for new hires). Employee may carry-over PTO year-to-year up to a cap of twenty-three (23) days, and carry-over Sick Leave year-to-year up to a cap of thirty (30) days. For purposes of carry-over, the year begins July 1.

All PTO must be requested and approved via the official EBIA process. PTO use is subject to EBIA approval, based on coverage and mission needs. Sick-Leave is not paid out upon separation, but may be transferred to subsequent employers or STRS where applicable.

5. **Employee Benefits**

Full-time Employees shall be entitled to participate in designated employee benefit programs and plans established by EBIA (subject to program and eligibility requirements) for the benefit of its employees, which from time to time may be modified by EBIA in its sole discretion.

6. **Performance Evaluation**

The Employee shall receive periodic performance reviews conducted by his/her supervisor. At a minimum, performance evaluations will be conducted annually, on or about the anniversary date of employment with EBIA. The frequency of performance evaluations may vary depending upon length of service, job position, past performance, changes in job duties, or recurring performance problems. Failure to evaluate the Employee shall not prevent EBIA from disciplining or dismissing the Employee at-will in accordance with this Agreement.

7. **Employee Rights**

Employment rights and benefits for employment at EBIA shall only be as specified in this Agreement, EBIA's charters, the Charter Schools Act, and EBIA's Employee Handbook, which EBIA may amend and modify from time to time. Employment rights and benefits may be affected by other applicable agreements or directives or advisories from the California Department of Education or the State Board of Education. During the term of this Agreement, the Employee shall not acquire or accrue tenure, or any employment rights with EBIA.

8. **Licensure**

The Employee understands that employment is contingent upon verification and maintenance of any applicable licensure and/or credentials.

9. **Child Abuse and Neglect Reporting**

California Penal Code section 11166 requires any child care custodian who has knowledge of, or observes, a child in his/her professional capacity or within the scope of his/her employment whom he/she knows or reasonably suspects has been the victim of child abuse to report the known or suspected instance of child abuse to a child protective agency immediately, or as soon as practically possible, by telephone and to prepare and send a written report thereof within thirty-six (36) hours of receiving the information concerning the incident. By executing this Agreement, the Employee acknowledges he/she is a child care custodian and is certifying that he/she has knowledge of California Penal Code section 11166 and will comply with its provisions.

10. **Fingerprinting/TB Clearance**

Fingerprint clearance for the Employee will be acquired through submitting the Employee's fingerprints to the California Department of Justice. The Employee will be required to assume the cost of all fees related to the fingerprinting process. The Employee will be required to submit evidence from a licensed physician and/or licensed entity that the Employee was found to be free from tuberculosis risk factors, or active tuberculosis if risk factors were identified. Both clearances must be in place prior to the first day of service.

11. **Conflicts of Interest**

The Employee understands that, while employed at EBIA, he/she will have access to confidential and proprietary information. The Employee therefore shall not maintain employment or contracts for employment, or engage in any consultant or independent contractor relationship, with any other agency or school that will in any way conflict with his/her employment with EBIA.

12. **Assignment of Inventions Agreements**

The Employee shall at all times be subject to and bound by the Agreement to Assign Inventions, attached hereto as **Attachment B**, which is attached and incorporated herein by reference.

C. **EMPLOYMENT AT-WILL**

EBIA may terminate this Agreement and the Employee's employment at any time with or without cause, with or without advance notice, and at EBIA's sole and unreviewable discretion. Either party may immediately terminate this Agreement and the Employee's employment upon written notice to the other party.

The Employee also may be demoted or disciplined and the terms of his/her employment may be altered at any time, with or without cause, at the discretion of EBIA. No one other than the

Board has the authority to alter this arrangement, to enter into an agreement for employment for a specified period of time, or to make any agreement contrary to the terms of this Agreement, and any such agreement must be in writing and must be signed by the Board and by the affected employee and must specifically state the intention to alter this “at-will” relationship.

In the event of charter revocation or non-renewal, all contractual obligations under this Agreement cease immediately upon the effective date of revocation or non-renewal.

**D. GENERAL PROVISIONS**

1. **Waiver of Breach**

The waiver by either party, or the failure of either party to claim a breach of any provision of this Agreement, will not operate or be construed as a waiver of any subsequent breach.

2. **Assignment**

The rights and obligations of the respective parties under the Agreement will inure to the benefit of and will be binding upon the heirs, legal representatives, successors and assigns of the parties hereto; provided, however, that this Agreement will not be assignable by either party without prior written consent of the other party.

3. **Governing Law**

This Agreement will be governed by, construed, and enforced in accordance with the laws of the State of California.

4. **Partial Invalidity**

If any provision of this Agreement is found to be invalid or unenforceable by any court, the remaining provisions hereof will remain in effect unless such partial invalidity or unenforceability would defeat an essential business purpose of the Agreement.

**E. ACCEPTANCE OF EMPLOYMENT**

By signing below, the Employee declares as follows:

1. I have read this Agreement and accept employment with EBIA on the terms specified herein.
2. All information I have provided to EBIA related to my employment is true and accurate.
3. A copy of the job description is attached hereto.
4. This is the entire agreement between EBIA and me regarding the terms and conditions of my employment. This is a final and complete agreement and there are no other agreements, oral or written, express or implied, concerning the subject matter of this Agreement.

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**EBIA Approval:**

Date: November 8, 2019

\_\_\_\_\_  
Rochelle Benning, Board President

***This Employment Agreement is subject to ratification and approval by the EBIA Board.***

## Attachment A

### **Job Description**

The **Executive Director** will lead, manage, and oversee all functions of the school, partnering with administrative leaders for high quality educational programs, student performance, sound fiscal management, school operations, community relations, facilities development, recruiting and talent development:

The Executive Director will be responsible for the following job duties, in partnership with the administrative leadership team:

#### **General Administrative Duties**

- Understand, promote and support the mission, vision, and guiding principles of EBIA Charter School.
- Collaborate with Leadership team to define, establish, and uphold EBIA policies
- Be knowledgeable about legal requirements, best practices, and EBIA duties in serving all populations.
- Ensure effective and frequent communications systems across multiple stakeholder groups.
- Seek input from staff, parents, students and Board of Directors on the school's functioning through formal and informal structures in order to make positive changes over time while maintaining program continuity and comprehensiveness.
- Develop a sense of community while respecting and responding appropriately to the strengths and needs of staff. Act as a liaison, when necessary and appropriate, between parents and staff.
- Be available to parents on a regular basis. Keep parents informed of and involved in policy changes at the school. Encourage parent support and cooperation and enlist their efforts to sustain well-kept school structure.
- Hire and supervise leadership team, and other staff positions as needed. Ensure a professional culture that includes comprehensive and thoughtful supervision and evaluation processes, that will help all staff reach goals and improve their performance.
- Ensure that all school staff understand, promote and support the mission, vision, and guiding principles of EBIA Charter School.
- Serve as primary liaison to the Board and to the larger community
- Represent EBIA as head and signatory with the EBIA Teachers Union, local and state governmental agencies, vendors, charitable partners, etc.

#### **School Culture and Climate**

- Ensure a positive and inclusive school climate is created, embracing EBIA's innovator norms.
- Ensure that systematic interventions occur whenever students are struggling; monitor quality and effectiveness of interventions to ensure they are rigorous, disciplined, and high-impact.

#### **Academics**

- Manage the site Principals to:

- Strive for alignment of the Design Thinking, Project Based Learning, and Blended Learning models to ensure teachers understand and experience the EBIA approach as a cohesive approach;
- Develop EBIA Essentials of Effective Instruction to define excellent instruction and progression towards excellent instruction.
- Set clear, measurable, motivating goals at the beginning of the year for every grade/subject and every class; ensure the team is bought into the goals and feels motivated by and accountable to them; keep goals front and center and regularly assess student progress toward them.
- Facilitate regular data inquiry cycles with teaching teams to ensure all students are making adequate progress towards mastery of standards.
- Utilize the assessment systems to ensure that teachers are using data to drive instruction and differentiate instruction; support teachers in developing strategic individualized learning plans.

## **Finance and Operations**

- Financial Management - including development and implementation of financial strategy; facilitation of budgeting, monitoring, cash management, vendor negotiations, risk management, and financial/tax/other external reporting and audits; support of development activities
- Facilities Management - including development and implementation of a facilities strategy that responds to student growth, needed improvements and asset management; oversight of technology and telecommunication infrastructure; support for safety and compliance
- Planning and Strategy - lead strategic planning, development/ recommendation of policies, implementation of board decisions, WASC review, charter renewal
- Oversight and partnership for the following operational elements:
  - Communications - partnering with the Principals and administrative team to inform and support board governance, outreach, and updates to staff/parent/student handbooks
  - Educational Administration - including oversight of the Director in charge of student registration, enrollment, attendance and assessment data systems, technology systems and instruction, and compliance with credentialing and certification requirements for staff
  - Human Resources Management - including oversight of the Director in charge of payroll and benefits, compliance with workforce regulations
  - Student Services Management - including oversight of the Director in charge of food, health and academic-support services
  - Office Management - including oversight of the Director responsible for professional development of the operations team, oversight of consultants, building a culture of high expectations and accountability, continuous system and process improvement

In addition to the duties described above, the Employee will perform such duties as EBIA Charter School may reasonably assign and Employee will abide by all EBIA Charter School's policies and procedures as adopted and amended from time to time. Employee further agrees to abide by EBIA Charter School's charter.



## **Attachment B**

### **AGREEMENT TO ASSIGN INVENTIONS**

While providing services to EBIA (together with its affiliates and subsidiaries, "EBIA"), your services may include, in part, the development of new products. To protect EBIA's ownership of these products and services, EBIA requires that you read and sign this Agreement. If you have any questions about this Agreement, or do not understand any part of it, please discuss your questions or concerns with your counsel before signing this Agreement.

**1. Assignment of Inventions.** I understand and agree that all Inventions (as defined below) that I develop, in whole or in part, will be the sole and exclusive property of EBIA, and I hereby assign all of my right, title and interest in and to any and all inventions, original works of authorship, curriculum, discoveries, developments, concepts, improvements or trade secrets, whether or not patentable or registrable under copyright or similar laws, which I may solely or jointly conceive or develop or reduce to practice during the period of my contract with EBIA ("Inventions") to EBIA, and I further agree to take all steps necessary to assist EBIA with applications, registrations, and other proper documentation to secure the assignment and protection of those rights.

I further understand and agree that this Agreement does not apply to any invention that I develop entirely on my own time without using EBIA's equipment, supplies, facilities, or trade secret information, except for those inventions that either:

(a) Relate at the time of conception or reduction to practice of the invention to EBIA's business, or actual or demonstrably anticipated research or development of EBIA; or

(b) Result from any work performed by me for EBIA.

**2. Disclosure of Inventions.** I agree to make prompt and full disclosure to EBIA of all Inventions made by me during the term of my employment, whether made solely or jointly with others. All information disclosed by me to EBIA that is outside the scope of this Agreement shall be received and held by EBIA in confidence. Such disclosure by me shall be made so that EBIA can determine whether or not rights to such Invention are EBIA's property.

**3. Maintenance of Records.** I agree to keep and maintain adequate and current written records of all Inventions and other business information made by me in the form of notes, sketches, drawings and other notations, which may be specified by EBIA. These records are the sole and exclusive property of EBIA.

**4. Inventions or Information Retained as Employee Property.** Attached as **Exhibit 1** to this Agreement, and incorporated herein by this reference, is a list of all Inventions that belonged to me prior to my contract with EBIA (collectively referred to as "Prior Inventions") and that relate to the business of EBIA or its actual or demonstrably anticipated research or development, the ownership of which is not assigned to EBIA hereunder. If no such list is attached, I represent that there are no such Prior Inventions. I represent that there are no other Inventions retained by me, except as disclosed.

5. **Incorporation of Employee’s Inventions or Information.** If, during the course of my employment with EBIA, I incorporate into EBIA’s products or information, processes, technology, or devices a prior invention or idea owned by me or in which I have an interest, then I hereby grant to EBIA a non-exclusive, royalty-free, irrevocable, perpetual, worldwide license to make, have made, modify, use and sell such prior invention or information as part of, or in connection with, EBIA’s products, processes, technology, devices, or information. If EBIA sells such prior invention or information as part of, or in connection with, EBIA’s products, processes, technology, devices, or information, EBIA will negotiate in good faith with the employee to determine a fair license fee for use of such prior invention.

6. **Intellectual Property Rights in Works of Authorship.** I acknowledge and agree that any intellectual property rights which qualify as works of authorship belong to EBIA and are “works made for hire” within the definition of Section 101 of the United States Copyright Act, Title 17, United States Code.

AGREED TO AND ACCEPTED BY:

Dated: \_\_\_\_\_

**Exhibit 1 Inventions or Information Retained as Employee Property**

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

Please add additional information/lines as needed