

AGREEMENT

THIS AGREEMENT is made and entered into as of this ___ day of _____ 2017, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

(hereinafter referred to as “SBBC”),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES

(hereinafter referred to as “FAU”),
whose principal place of business is
Board of Trustees
777 Glades Road, Boca Raton, Florida 33431

WHEREAS, Florida Atlantic University (FAU) and The School Board of Broward County, FL (SBBC) shall collaborate to continue to provide the Broward Educator Certification (BEC) program to support the retention of teachers.

WHEREAS, SBBC desires that certain Broward County Public School employees on a temporary teaching certificate increase their level of skill and apply for the Professional Educator's Certificate for full certification in the State of Florida. FAU offers coursework to help prepare teachers through a rigorous program of study and practice necessary to retain employment. The professional learning and coursework includes: (1) EDF 3210- Applied Learning Theory, (2) EDG 4343-Classroom Instructional and Assessment Strategies, (3) RED 4335-Content Reading: Middle and Secondary Schools, and (4) EDG 4419-Building Classroom Management and Discipline;(5) EDF 3430 Educational Measurement and Evaluation.

WHEREAS, the SBBC intends to enter into an Agreement with Florida Atlantic University (FAU) Board of Trustees for the purpose of training employees through a curriculum provided by FAU.

WHEREAS, to enroll in the FAU courses, teachers seeking full certification send their personally identifiable information directly to FAU. SBBC will disclose SBBC teachers’ names and work email addresses to FAU for registration purposes; and

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals.** The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement.** Unless terminated earlier pursuant to Section VIII.9. of this Agreement, the term of this Agreement shall commence upon execution by all parties and conclude on September 30, 2018.

2.02 **FAU Responsibilities:** FAU will provide the following sponsored courses to facilitate well-structured engagement in professional learning, specifically in courses that SBBC teachers need to complete their Florida Department of Education (FDOE) teaching certification.

(a) The FAU provided sponsored courses will:

1. Provide two sections of the three credit hours of education in EDF 3210 – Applied Learning Theory;
2. Provide two sections of the three credit hours of education in EDG 4343 – Classroom Instructional and Assessment Strategies;
3. Provide one section of the three credit hours of education in RED 4335 – Content Reading: Middle and Secondary Schools;
4. Provide two sections of the three credit hours of education in EDG 4419 – Building Classroom Management and Discipline;
5. Provide two sections of the three credit hours of education in EDF 3430 – Educational Measurement and Evaluation;
6. Provide instruction to public school teachers representing the schools in Broward County Public Schools;
7. Be staffed by FAU faculty/instructors as approved by FAU, College of Education; and
8. Complete all required assessments described in the syllabi to determine performance evaluations in the courses.

(b) The FAU course sessions will be administered as a Sponsored Program through FAU College of Education. This will include:

1. Registration of students online by FAU to process with registrar
 - a. Will take place on the start date determined by agreement with the SBBC and FAU College of Education;
 - b. Be handled by FAU through online registration
 - c. Will include FAU academic credit for the contact hours per course;

- d. For students that have submitted a signed FERPA release, will notify SBBC immediately if any participant fails to complete a course;
- e. Participants must have a bachelor's degree, be a teacher in a school in Broward County Public Schools, and meet the general admission requirements of FAU for non-degree student;
- f. The SBBC will select participants based upon certification recommendation and teacher interest in participating in these fast track sections, the sponsor of the courses. FAU is not responsible for the selection of the participants.
- g. If participants drop the course after the first class, no refunds will be given concerning any fees, application or tuition based; and
- h. All general admission requirements must be supplied at least 20 days before the start of the semester in which classes will be attended.

(c) Class Scheduling

1. Site arrangements will be made by FAU and take place on the Davie Campus of FAU or online.
2. Time will be agreed upon mutually by FAU, SBBC and the Instructor of record.

(d) FAU Course Outline and Textbooks:

1. Applied Learning Theory (EDF 3210) 3 credits
This course addresses factors influencing the general and special learner and the learning process and implications of learning theories for curriculum, instruction and classroom management. Recent research as reflected in the knowledge base and applied to the classroom.
2. Classroom Instructional and Assessment Strategies (EDG 4343) 3 credits
A professional preparation course using research-based strategies that focus on the organization and development of instruction, effective assessment strategies with emphasis on data-driven decision-making, and instructional strategies that include the needs of diverse learners. Course emphasizes the education competencies of the Florida Educator Accomplished Practices.
3. Content Reading: Middle and Secondary Schools (RED 4334) 3 credits
This course is designed to facilitate the acquisition and integration of reading, writing, and study skills into middle and secondary school content areas.
4. Building Classroom Management and Discipline (EDG 4419) 3 credits
Course provides an overview of strategies and techniques for organizing and managing classroom settings. Strategies and techniques include

arrangements for managing students, materials, time, and space. The course is appropriate for both elementary- and secondary-level teachers. Participants will engage in ongoing discussions of the relevance of the curriculum, key issues and topics in curriculum and instructional practice, share resources, and submit assignments through the Blackboard course site.

5. Educational Measurement and Evaluation (EDF 3430) 3 credits

A basic course to train students/teachers to integrate classroom assessment into instructional planning to improve student learning. Along with basic terminology, students develop particular skills in writing instructional objectives, developing test items of various types, constructing rating scales and understanding the interpretation of standardized tests.

6. Textbooks:

Books and materials are the sole responsibility of the student.

2.03 **SBBC Responsibilities:** Based on a minimum of ten students and a maximum of twenty-five (25) students per course SBBC Department of Teacher Professional Learning and Growth will coordinate the selection of up to fifty (50) teachers to participate in the BEC program.

2.04 **Cost:**

- (a) SBBC to pay Florida Atlantic University a total of \$603.87 per student enrolled in each course. Students are responsible for all other fees (Non-degree registration application fee, transportation access fee, owl card fee, and eLearning fee, if course is delivered online).
- (b) SBBC shall pay FAU within two weeks of receiving the invoice.

2.05 **Program Administration:** FAU College of Education agrees to assume responsibility for academic integrity of the course and provide academic credit. In addition, both parties agree there will be no discrimination on the basis of race, color, national origin, sex, religion, age, marital status, veteran status, sexual orientation or disability.

2.06 **Inspection of FAU's Records by SBBC.** FAU shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All FAU's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by FAU or any of FAU's payees pursuant to this Agreement. FAU's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement.

FAU's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) FAU's Records Defined. For the purposes of this Agreement, the term "FAU's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to FAU's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to FAU pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide FAU reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to FAU's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by FAU to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any FAU's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If the audit discloses billings or charges to which FAU is not contractually entitled, FAU shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspector General Audits. FAU shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Required Insurance:** Each party acknowledges without waiving its right of sovereign immunity as provided by Section 768.28, Florida Statutes, that each party is self-insured for general liability under state law with coverage limits of \$200,000 per person and

\$300,000 per occurrence, or such monetary waiver limits that may change and be set forth by legislature.

2.08 **Notice.** When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Daniel F. Gohl
Chief Academic Officer
The School Board of Broward County, Florida
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301

To FAU Dr. Don Torok, Associate Dean
Florida Atlantic University
College of Education, Dean's Office
777 Glades Road
Boca Raton, Florida 33431

With a Copy to: Dr. Valerie Bristor
Dean, College of Education
Florida Atlantic University
777 Glades Road
Boca Raton, Florida 33431

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor.** The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision.** The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination.** This Agreement may be canceled with or without cause by either party during the term hereof upon ninety (90) days written notice to the other parties of its desire to terminate this Agreement. Neither party shall have liability for any property left on its property by any party to this Agreement after the termination of this Agreement.

3.06 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof.

Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds.** Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records.** The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. FAU shall keep and maintain public records required by SBBC to perform the services required under this Agreement. Upon request from SBBC's custodian of public records, FAU shall provide SBBC with a copy of any requested public records or to allow the requested public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law. FAU shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement's term and following completion of the Agreement if FAU does not transfer the public records to SBBC. Upon completion of the Agreement, FAU shall transfer, at no cost, to SBBC all public records in possession of FAU or keep and maintain public records required by SBBC to perform the services required under the Agreement. If FAU transfers all public records to SBBC upon completion of the Agreement, FAU shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If FAU keeps and maintains public records upon completion of the Agreement, FAU shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

IF A PARTY TO THIS AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 754-321-1900, REQUEL.BELL@BROWARDSCHOOLS.COM, RISK MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600 SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.

3.10 **Student Records.** Notwithstanding any provision to the contrary within this Agreement, the parties under this Agreement shall fully comply with the requirements of Sections 1002.22, 1002.221, 1002.225 Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records (the "Privacy Laws"), as applicable. Each such party agrees, for itself, its officers, employees, agents,

representatives, contractors or subcontractors, to fully indemnify and hold harmless the other party and their respective officers and employees for any violation of this section, including, without limitation, defending the other party and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon that party, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon that party arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or the Privacy Laws.

3.11 **Compliance with Laws.** Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance.** All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment.** Neither this Agreement or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference.** **Exhibits** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions.** The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability.** In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement.** The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure.** Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival.** All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26 **Indemnification.** Each party agrees to be fully responsible and assume any and all risks of personal injury and property damage, deprivation, or infringement (including, but not limited to, intellectual property) to the extent attributable to its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment. Nothing contained herein shall be construed or interpreted as (1) denying to either party any remedy or

defense available to such party under the laws of the State of Florida; (2) the consent of the State of Florida or its officers, employees, servants, agents, agencies, or public bodies corporate to be sued; or (3) a waiver of sovereign immunity of the State of Florida beyond the waiver provided in section 768.28 of the Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.27 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

ATTEST:

By _____
Abby M. Freedman, Chair

Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams, Esq.
- kathelyn.jacques-adams@gbrowardschools.com
Reason: Florida Atlantic University Board of
Trustees
Date: 2017.08.21 11:50:59 -04'00'

Office of the General Counsel

FOR FAU

Florida Atlantic University
Board of Trustees

By Russell Perry for Gary Perry
Dr. Gary Perry, Provost*

ATTEST:

Valerie J. Brister
Dr. Valerie Brister, Dean
College of Education

*Delegated signature authority of Florida Atlantic University Board of Trustees pursuant to FAU Regulation 6.002 and University Policy 11.1