

A G R E E M E N T

THIS AGREEMENT, made and entered into this ____ day of _____, 2007 by and between:

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

(herein 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

THE SCHOOL BOARD OF PUTNAM COUNTY, FLORIDA

(hereinafter referred to as "SBPC"), whose principal place of business is 200 South 7th Street, Palatka, Florida 32177.

WHEREAS Florida Legislature approved funding for the North East Florida Educational Consortium (NEFEC) Dropout Prevention/Credit Recovery Program through HB 5001 - 2006 General Appropriations Act, Item #124.

WHEREAS the SBPC on behalf of the North East Florida Education Consortium acts as the governing board for the distribution of funds; and

WHEREAS NEFEC will assist SBBC in obtaining and implementing the approved Educational Options, Inc. NOVEL/STARS, a web-based, competency-centered curriculum through an allocation entitled Web-Based Instruction Programs- NEFEC; and

WHEREAS the program shall be called the NEFEC Dropout Prevention/Credit Recovery Program.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants embodied herein, and other valuable considerations, the parties to this contract mutually 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. Unless terminated earlier pursuant to section 3.04 of this Agreement the term of this Agreement shall commence upon signing and conclude on June 30, 2007.

2.02 Enabling Legislation. The Florida Legislature authorizes NEFEC through HB 5001 - 2006 General Appropriations Act, Item #124, to provide web-based instruction programs to students eligible for Dropout Prevention services.

2.03 SBBC Designee. The SBBC's designee for purposes of administering this agreement will be the Superintendent of Schools who may assign a designated administrator for monitoring compliance and educational program administration.

2.04 SBPC Designee. The SBPC and NEFEC will identify one person with whom the SBBC is to communicate on all compliance issues related to this Agreement.

2.05 Purpose. The purpose of this Agreement is to ensure the parties comply with the priorities of the NEFEC program. The priorities include legislative support for reduced cost, web-based instruction programs to enhance the educational opportunities for students who meet at-risk criteria for Dropout Prevention and/or clients of the Department of Juvenile Justice.

2.06 Program Description. The program is a Dropout Prevention/Credit Recovery Program with expectations and outcomes as follows:

- a) Improving student performance on Sunshine State Standards;
- b) addressing unmet needs of low-performing students in dropout retrieval programs or summer school programs; and
- c) support for programs that are serving students at-risk of dropping out of school, suspended, or enrolled in expulsion abeyance programs and in the custody of the Department of Juvenile Justice (DJJ).

2.07 Credit Recovery Program. The SBBC will work with the Educational Options, Inc. and sign a subscription/license agreement with them identifying the location, number and type of licenses to be purchased.

2.08 Mutual Responsibilities. Each party agrees to collaborate and support implementation and reporting requirements of the NEFEC Dropout Prevention/Credit Recovery Program. NEFEC will work with Educational Options, Inc. to ensure compliance with the Agreement.

2.09 Price and Payment Terms. Educational Options, Inc. stipulates a subscription price of \$270.00 per student served, an activation fee of \$1,500.00 for the first year of implementation. The activation fee includes initial training and technical support for the first year. Subsequent years require an annual fee of \$1,000.00 to include technical support.

2.10 Funding and Reimbursement. NEFEC upon receipt of the required program documentation will reimburse SBBC for student subscriptions/licenses at a rate of \$200.00 per reusable license or \$120.00 per single-use license, site activation fees.

2.11 SBBC Program Activities. The relationship with NEFEC and Educational Options, Inc. requires that SBBC pay Educational Options the entire cost of the NEFEC Dropout Prevention/Credit Recovery at the time of purchase. SBBC shall be eligible for the terms of reimbursement by complying with the NEFEC data collection through quarterly reports, participation in scheduled conference calls and documented evidence of revisions that impact the final data.

2.12 Student Eligibility. Dropout Prevention eligibility as defined by FS 1003.53 targets students who are in danger of dropping out: two or more years over age for grade; attendance issues; deficient in credits, pregnant and parenting, expelled and/or in the custody of the Department of Juvenile Justice.

2.13 Compliance with Department of Education. The parties mutually agree that they are each responsible for reporting protocols developed by the Department of Education. Failure to comply may lead to non-compliance and potential fiscal penalties.

2.14 Student Assessment and Evaluation. All parties agree:

- a) To initiate an assessment process at intake to determine the most appropriate program placement;
- e) SBBC will annually assess student achievement in mathematics, reading, and writing to determine the effectiveness of academic initiatives.

2.15 Disputes. In the event that a dispute arises under this agreement, the parties agree to the following dispute resolution measures:

1. Step 1 is resolution of the dispute at the School Principal level;
2. Step 2 is resolution of the dispute at the Area Superintendent level;
3. Step 3 is resolution of the dispute by the Superintendent of Schools.

2.16 Indemnification. The parties recognize their respective liability for certain tortuous acts of their agents, officers, employees and invitees, and agree to be responsible respectively for all claims, liability, losses, and/or causes of action that may arise from any negligent act or omission due to the acts of its agents, servants, or employees, to the extent and limits, provided by law, said governmental entities subject to the limits provided in Section 768.28, Florida Statutes, the State of Florida's partial waiver of Sovereign Immunity; provided, however, that this provision shall not be construed as a waiver of any right or defense that the governmental entities have under said statute.

ARTICLE 3 - GENERAL CONDITIONS

3.01 No Waiver of Sovereign Immunity. Nothing contained in this Agreement is intended to serve as a waiver of sovereign immunity by any agency to which sovereign immunity may be applicable.

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 manner arising out of any contract.

3.03 Non-Discrimination. The Parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this Agreement because of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

3.04 Termination. This Agreement may be cancelled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement.

3.05 Records. Each Party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each Party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees of non-compliance with that law.

3.06 Entire 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.

3.07 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.

3.08 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.

3.09 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. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

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

3.11 Governing Law. 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 venue 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.

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

3.13 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.

3.14 Force Majuere. 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.

3.15 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.

3.16 Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unlawful, unenforceable or void in any respect, the invalidity, illegality, unenforceability or unlawful or void nature of that provision shall not effect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

3.17 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 School Board

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

With a Copy to:

Deputy Superintendent
The School Board of Broward County, Florida
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301

North Central Area Superintendent
The School Board of Broward County, Florida
7770 West Oakland Park Boulevard
Sunrise, Florida 33351

Agency:

Robert E. Smith, Executive Director
North East Florida Educational Consortium
3841 Reid Street
Palatka, Florida 32177

With a Copy to:

David M. Buckles, Superintendent
District School Board of Putnam County
200 South 7th Street,
Palatka, Florida 32177

C.L. Overturf, Jr., Chair
District School Board of Putnam County
200 South 7th Street
Palatka, Florida 32177

3.18 Captions. The captions, section numbers, article numbers, title and headings appearing in this Agreement are inserted only as a matter of convenience 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 effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 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.

3.20 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 with interest calculated from the date of the erroneous payment or overpayment. Interest shall be calculated using the interest rate for judgments under Section 55.03, Florida Statutes, applicable at the time the erroneous payment or overpayment was made by SBBC.

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IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals.

FOR SBBC

(CORPORATE SEAL)

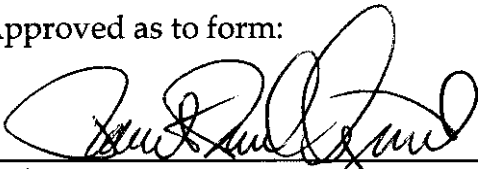
THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

Beverly A. Gallagher, Chair

ATTEST:

James F. Notter, Interim
Interim Superintendent of Schools

Approved as to form:



School Board Attorney

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FOR: NORTH EAST FLORIDA EDUCATIONAL CONSORTIUM

Agency Name


(CORPORATE SEAL)

North East Florida Educational Consortium

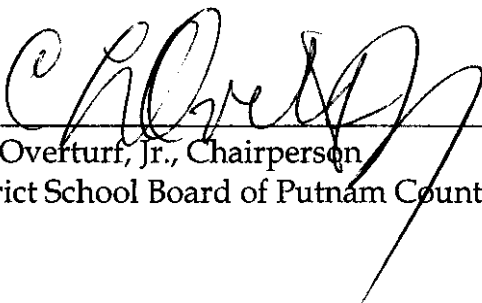
Name of Corporation/ Agency

BY: 
Robert E. Smith, Executive Director

5-15-07
Date

BY: 
David M. Buckles, Superintendent
District School Board of Putnam County

5-15-07
Date

BY: 
C.L. Overturf, Jr., Chairperson
District School Board of Putnam County

5-15-07
Date

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