

AGREEMENT

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

THE SCHOOL BOARD OF SARASOTA COUNTY, FLORIDA

(hereinafter referred to as "SBSC"),
a body corporate and political subdivision of the State of Florida, whose principal place of
business is
1960 Landings Boulevard, Sarasota, FL 34231

And

The District Board of Trustees of Florida SouthWestern State College, Florida
(hereinafter referred to as "COLLEGE"), whose principal place of business is
8099 College Parkway
Fort Myers, Florida 33919-5566

WHEREAS, SBSC and COLLEGE wish and intend by this Agreement set forth the terms and conditions of engaging in a cooperative program (hereinafter referred to as the "Program") for the classroom field placement of selected College Students enrolled at COLLEGE with the mutual objective of preparing students for entry into the teaching profession.

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.** The term of this Agreement shall commence upon execution of this Agreement by all parties and continue until terminated by either party pursuant to Section 3.05 of this Agreement.

2.02 **COLLEGE Responsibilities.**

2.02.1 COLLEGE shall plan and administer the COLLEGE educational program for its students and be responsible for the enrollment of its students in COLLEGE courses, including the clinical field placement.

2.02.2 COLLEGE shall maintain all educational records and reports relating to the COLLEGE educational programs completed by COLLEGE students during the clinical field experience.

2.02.3 COLLEGE shall determine, in its sole discretion, which of its enrolled students shall be eligible to participate in the Program.

2.02.4 COLLEGE shall provide a person to serve as its Coordinator to oversee its education program and coordinate Programmatic activities with SBSC.

2.02.5 COLLEGE shall work through the SBSC office of Curriculum and Instruction to determine the advance placements sites for student teachers in the Program, including dates and the number of students.

2.02.6 COLLEGE shall require, as a condition of their participation in the Program its students to complete a security information background check form provided by SBSC and submit to fingerprinting and criminal records background check to be performed by SBSC or at its direction.

2.02.7 COLLEGE shall, in consultation with SBSC, be responsible for grading of the field placement experience and determining whether a COLLEGE student has completed the requirements of the COLLEGE educational program.

2.02.8 COLLEGE students shall not be considered as employees or agents of the COLLEGE.

2.02.9 COLLEGE shall be solely responsible for the conduct of any proceedings of its students related to academic or behavioral matters.

2.02.10 COLLEGE agrees to inform its students that they are responsible for the rules and regulations of SBSC, including recognition of the confidential nature of information regarding pupils and their records.

2.02.11 COLLEGE will provide SBSC with a copy of course objectives for the learning experience. SBSC, together with COLLEGE, will make arrangements for evaluating the learning experience.

2.03 SBSC Responsibilities.

2.03.1 SBSC shall be responsible for the conduct of its operations, supervision of its staff and the education of its District students. COLLEGE shall not control any of SBSC property or operations.

2.03.2 SBSC shall determine, in consultation with COLLEGE, the College students who will be placed at SBSC schools and which schools.

2.03.3 SBSC shall provide to COLLEGE a security background information form to be completed by COLLEGE students and provide a process for fingerprinting and criminal records background check to be performed by SBSC or at its direction. SBSC, in its sole discretion, shall determine whether a COLLEGE student has satisfactorily cleared the security screening.

2.03.4 SBSC shall in consultation with COLLEGE, assign its teachers to serve as supervising teachers for the evaluation of the COLLEGE student teachers. SBSC, supervising teachers shall complete evaluation forms provided by COLLEGE. Supervising teachers selected by SBSC will (a) assist in orienting COLLEGE students to the school, the classroom and the pupils; (b) explain relevant school and district policies, rules and regulations to COLLEGE students; (c) provide prompt and substantive feedback to COLLEGE students regarding performance activities and interactions with SBSC personnel, pupils and parents; (d) complete evaluation of COLLEGE student progress and submit them to COLLEGE after reviewing them with applicable COLLEGE students; (e) immediately inform the COLLEGE faculty supervisor of any concerns regarding a COLLEGE student; (f) establish a time to meet and discuss with COLLEGE students their activities, impressions, reflections, and suggestions for goals and areas of improvement; (g) under no circumstance require a COLLEGE student even if he/she is certified, to serve as the substitute of record during the student teaching experience unless a separate agreement has been negotiated in writing by the SBSC and the COLLEGE.

2.03.5 Students of COLLEGE shall not be deemed to be employees of SBSC for purposes of compensation, fringe benefits, worker's compensation, unemployment compensation, minimum wage laws, income tax withholding, social security or any other purpose, because of their participation in the Program. Each COLLEGE student is placed with SBSC to receive clinical

field experience as a part of his or her academic curriculum; those duties performed by a COLLEGE student are not performed as an employee, but in fulfillment of these academic requirements and are performed under supervision. At no time during their practicum shall COLLEGE students replace or substitute for an employee of SBSC. This provision shall not be deemed to prohibit the employment of any such COLLEGE student by the SBSC under a separate employment agreement for separate or additional duties.

2.03.6 SBSC shall retain the right, in its sole discretion, to request the removal of any individual from any area of the school premises. COLLEGE students shall be instructed by the COLLEGE to promptly and without protest leave an area whenever they are requested to do so by an authorized SBSC representative.

2.03.7 SBSC will provide to COLLEGE students the policies and procedures and other relevant materials to allow COLLEGE students to function appropriately within the school. 2.03.8 SBSC will permit COLLEGE students to access the library/media facilities and curriculum resources available to personnel. COLLEGE students may not remove materials from the school without appropriate approval.

2.03.9 SBSC shall keep confidential and shall not disclose to any person or entity (a) COLLEGE student applications; (b) COLLEGE student health records or reports; and/or (c) any COLLEGE student records as defined in the Family Educational Rights and Privacy Act, 20 U.S.C. 1232G, concerning any COLLEGE student participating in the education experiences ordered by a court of competent jurisdiction.

2.03.10 COLLEGE students shall not be considered employees or agents of SBSC.

2.04 **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 SBSC: Catherine Cocozza
Director, Curriculum and Instruction –
High School
1960 Landings Blvd.
Sarasota, FL 34231

With a Copy to: Bernadette D. Bennett, Ed.D.
Program Specialist, Curriculum and
Instruction – High School
1960 Landings Blvd.
Sarasota, FL 34231

To COLLEGE: Elizabeth Perdomo
Coordinator of Clinical Placements
eperdomo@fsw.edu
8099 College Parkway
Fort Myers, FL 33919

With a Copy to: Office of the Dean of the School of Education
Florida SouthWestern State College
8099 College Parkway
Fort Myers, Florida 33919-5566

2.05 **Background Screening:** COLLEGE agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when District students are present, (2) will have direct contact with District students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBSC in advance of COLLEGE or its personnel providing any services under the conditions described in the previous sentence. COLLEGE, or its students participating in the program, shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to COLLEGE and its personnel. The parties agree that the failure of COLLEGE to perform any of the duties described in this section shall constitute a material breach of the Agreement entitling SBSC to terminate immediately with no further responsibilities or duties to perform under this Agreement.

2.06 **Indemnification** 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.

- A. By SBSC: SBSC agrees to be fully responsible up to the limit of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages up to the limit of Section 768.28, Florida Statutes, resulting from said negligence.
- B. By COLLEGE: COLLEGE agrees to be fully responsible up to the limit of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages up to the limit of Section 768.28, Florida Statutes, resulting from said negligence. .

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 SBSC retirement, leave benefits or any other benefits of SBSC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBSC shall not be responsible for social security, withholding taxes, and 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 cancelled with or without cause by either party during the terms upon 30 days written notice. Any COLLEGE student teacher will be permitted to complete his or her student teaching assignment unless the particular student teacher is removed pursuant to paragraph 2.03.6 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 reasonable 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 **Public Records.** Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBSC or the College is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBSC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure

requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost, to SBSC all public records in that party's possession upon termination of its contract with SBSC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBSC in a format that is compatible with SBSC's information technology systems. 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 for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.08 **Student Records:** Notwithstanding any provisions to the contrary within this Agreement any party contracting with SBSC under this Agreement shall fully comply with the requirements of Section 1002.22, Florida Statutes, or any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBSC and its officers and employees for any violation of this section, including, without limitation, defending SBSC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBSC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor or subcontractor 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 of Section 1002.22, 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.

3.09 **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.

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

3.11 **Governing Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The sole and exclusive jurisdiction for controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be in the State courts of the Twelfth Judicial Circuit of Sarasota County, Florida.

3.12 **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.

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

3.14 **Assignment.** Neither this Agreement nor 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 SBSC.

3.15 **Captions.** The captions, section designations, section numbers, article numbers, titles and headings appearing in the 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 effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.16 **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.

3.17 **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.

3.18 **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.

3.19 **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.

3.20 **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

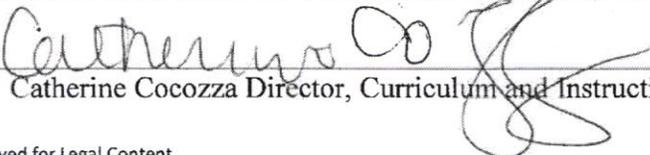
reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.21 **Survival.** All representations and warranties made herein regarding indemnification obligations, obligations to reimburse SBSC, obligations to maintain and allow inspections 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.

3.22 **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.

THE SCHOOL BOARD OF SARASOTA COUNTY, FLORIDA

BY 
Catherine Cocozza Director, Curriculum and Instruction – High School

Approved for Legal Content
October 31, 2014, by Matthews, Eastmoore,
Hardy, Crauwels & Garcia, Attorneys for
The School Board of Sarasota County, Florida Signed:
ASH

COLLEGE
BY 
Its President
Printed name: Jeffery S. Allbritten