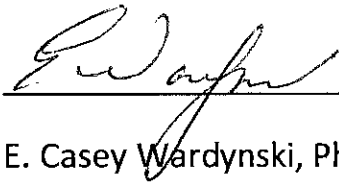


November 3, 2011

RECOMMENDATION

I recommend approval of the attached contract between the Huntsville City Board of Education and Teach For America, Inc.



E. Casey Wardynski, Ph.D.
Superintendent

EDUCATIONAL PROFESSIONAL SERVICES AGREEMENT

This educational professional services agreement (this "Agreement") is dated _____, 2011 and is entered into between TEACH FOR AMERICA, INC. ("Teach For America"), a Connecticut non-profit headquartered at 315 W. 36th Street, 6th Floor, New York, New York 10018, and the Huntsville City Board of Education, headquartered at 200 White Street, Huntsville, AL 35801, ("School District").

Teach For America is a national leader in recruiting, selecting, training and providing ongoing professional development to individuals committed to closing the achievement gap by serving as effective classroom teachers specifically equipped to enhance student achievement in under-resourced school systems. School District seeks to recruit new teachers who are trained to lead students to academic achievement and to equip said teachers with ongoing professional development and support to further develop and sustain their professional practice.

Accordingly, and contingent upon the availability of sufficient funding to enable Teach For America to expand its operations to the City of Huntsville and provide the described services, School District and Teach For America agree as follows:

I. TEACHER CANDIDATE RECRUITMENT, SELECTION AND HIRING

School District Responsibilities:

A. Hiring Commitment.

- i. Teach For America will use its reasonable efforts to provide the number of teacher candidates for employment with School District ("Teachers") set forth in **Appendix A** (the "Agreed Number"), but Teach For America cannot and does not guarantee its ability to provide the full Agreed Number of Teachers to School District and the failure of Teach For America to provide the full Agreed Number for any academic year shall not constitute a breach of this Agreement for any purpose whatsoever.
- ii. Whether or not Teach For America is able to provide the Agreed Number of Teachers, School District will hire every Teacher mutually selected in accordance with the terms of this Agreement, up to and including the Agreed Number, who meets the district eligibility requirements set forth in **Appendix B**.
- iii. School District will hire each such Teacher as the classroom teacher of record and not for substitute, auxiliary, resource or teacher's aide positions.
- iv. School District is open to hiring such Teachers for all grade levels and all subjects.
- v. School District will restrict hiring of each such Teacher to schools where at least 70% of attending students are eligible for free or reduced lunch unless mutually agreed upon by School District and Teach For America.

B. Hiring Process.

- i. School District agrees to collaborate with Teach For America to facilitate the hiring of Teachers in accordance with **Appendix B**.

- ii. School District shall enter into written employment agreements with and employ the Agreed Number of Teachers at least fourteen (14) days before the first day of the academic school year.
- iii. Subject to its obligations under pre-existing collective bargaining agreements, contracts, or applicable law, School District will offer alternative employment to any Teacher who is not employed by the first day of the academic school year. "Alternative employment" includes, but is not limited to substitute teaching positions, "pool" teaching positions, classroom aides or other temporary category of employment available within School to individuals with teaching credentials. The purpose of an alternative employment placement is to enable the individual Teacher to obtain a salary until such time as School District can secure permanent employment as a full-time classroom teacher of record.
- iv. In the event that School District cannot offer alternative employment for whatever reason, School District will pay Teach For America a fee of \$40 for each business day that an eligible Teacher is not employed after the first day of school for students, up to forty (40) days. (Teach For America uses such fees to defray the living expenses of unplaced Teachers.) However, School District will not incur any fee for not employing a Teacher for good cause. Good cause is defined as any reason for which the School District could terminate or suspend an employee under Alabama Code § 16-24C-6.

Teach For America Responsibilities:

- C. Candidate Recruitment and Selection. Teach For America will recruit, select for participation in the Teach For America program, and present to the School District for employment, Teachers from a broad range of academic majors and career fields who meet applicable state and/or local requirements for teacher licensure. Teach For America will use reasonable efforts to recruit Teachers from diverse backgrounds. In connection with the foregoing, Teach For America will not knowingly engage in any unlawful acts of discrimination in its recruiting or selection of candidates.
- D. Pre-Service Training. Prior to entering the classroom, all Teachers will undergo pre-service training designed and delivered by Teach For America.
- E. Highly Qualified Status. Teach For America will provide the described training to Teachers presented to School District for the purpose of ensuring that such Teachers meet the "highly qualified" teacher requirements set forth in the federal No Child Left Behind Act and applicable state regulations ("Requirements") For purposes of this Section E, only those Requirements in effect at the time that the Teacher is offered employment by School District will be applicable. The provisions of Section E will not apply in the event that the parties mutually agree that School District will hire an individual Teacher on an "emergency" certificate. In such an event, the parties will

agree on a reasonable period of time for the individual Teacher to obtain the appropriate license/certification and take whatever additional steps are reasonable to meet the applicable Requirements.

II. TEACHER PLACEMENT AND PROFESSIONAL DEVELOPMENT COMMITMENTS

School District Responsibilities

A. Employment Status.

- i. Every Teacher employed by School District as described in this Agreement shall be a full employee of School District with all of the rights, responsibilities and legal protections attendant to that status.
- ii. Nothing in this Agreement shall be construed to permit Teach For America to interfere in the employment relationship between School District and an employed Teacher.
- iii. Nothing in this Agreement shall be construed to permit Teach For America to function as the representative of any Teacher absent the express agreement among the Parties and the Teacher that Teach For America may operate in such capacity in a particular circumstance.
- iv. Nothing in this Agreement shall be construed to imply that an employer-employee relationship exists between Teach For America and any individual Teacher.
- v. Nothing in this Agreement shall be construed to make Teach For America a party to any employment agreement between the School District and the Teacher.
- vi. Nothing in this Agreement shall be construed to imply that any Teacher employed by the School District as

described in this Agreement is an agent of Teach For America or has any right or authority to create or assume any obligation of any kind, express or implied, on behalf of Teach For America or bind Teach For America in any respect whatsoever.

B. Compensation of Teachers. School District shall provide to every Teacher employed by School District pursuant to this Agreement the same salary and benefits (including, as applicable, health, dental, vision and retirement) as are provided to other teachers employed by School District who are similarly situated from the standpoint of certification status, seniority and any other factors routinely used by School District in making such decisions.

C. Reductions in Force. Subject to its obligations under pre-existing labor agreements and applicable municipal and state laws and regulations, School District shall use reasonable efforts not to terminate any employed Teacher from his/her teaching position in the event of a reduction in force (RIF), layoffs, "leveling" or other elimination or consolidation of teaching positions within School District. School District shall treat any Teacher employed in connection with this Agreement whose teaching position is eliminated at least as favorably as other teachers with the same job classification, certification status, and/or seniority rights. This obligation is limited and controlled by any obligations that the School District has under any pre-existing collective bargaining agreements, the School District's Reduction in Force Policy, and applicable municipal and state laws and regulations.

Teach For America Responsibilities

D. Professional Development Services.

- i. During the course of the academic year, Teach For America shall provide various professional development services and activities for participating Teachers. These services may include periodic classroom observations by regional program staff, videotaping of instruction with review of instructional technique, co-investigative discussions to facilitate Teacher capacity for self-reflection and evaluation of instructional practice using student achievement data, and content area/grade-level workshops facilitated by veteran teachers. In addition, Teach For America shall facilitate Teacher access to an assortment of resources including sample lesson plans, assessments, grade tracking systems, and content area/grade level instructional materials. These professional development services will be available to all Teachers during their first two years in the classroom.
- ii. Pursuant to its obligations under the Family Education Rights and Privacy Act ("FERPA"), School District hereby acknowledges that in the course of providing on-going professional development services for the purposes of improving instruction, School District may disclose to Teach For America student identifiable data from individual Teachers, pursuant to 34 CFR §99.31(a)(6)(i)(c).
- iii. Teach For America shall use and maintain such data as provided in 34 CFR §99.31(a)(6). In accordance with 34 C.F.R. § 99.33(b), Teach For America may re-disclose student identifiable information on behalf of School

District as part of Teach For America's service to School District of providing on-going professional development services.

- iv. Teach For America may also disclose student identifiable information on behalf of School District to additional parties, provided that Teach For America, in advance, provide to School District the names of such parties and a brief description of such parties' legitimate interest in receiving such information.

E. Credentialing Services.

- i. Teach For America shall facilitate the enrollment of individual Teachers in an alternative certification/licensure program that will enable the individual Teacher to obtain appropriate credentials to be a classroom teacher of record.
- ii. Individual Teachers are responsible for completing all credential requirements, including required coursework through an alternative licensure program.
- iii. Teach For America shall not be responsible for, and shall not be in breach of any provision of this Agreement, in the event of any failure by an individual Teacher to fulfill his/her obligations to maintain his/her teaching credentials.

III. GENERAL PROVISIONS

A. Fees.

- i. School District shall pay Teach For America an annual fee for each Teacher employed under this Agreement to defray expenses Teach For America incurred in

recruiting, selecting, providing pre-service training and continuing professional development services to the Teachers employed by School District under this agreement.

- ii. With respect to each Teacher whose employment by School District is to commence in the 2012-2013 academic year, School District shall pay Teach For America an annual amount of \$5,000.00 for each year in which such Teacher is employed by School District, up to two years from the date such employment is to commence; and
- iii. With respect to each Teacher whose employment by School District is to commence in the 2013-2014 academic year, School District shall pay Teach For America an annual amount of \$5,000.00 for each year in which such Teacher is employed by School District, up to two years from the date such employment is to commence.
- iv. With respect to each Teacher whose employment by School District is to commence in the 2014-2015 academic year, School District shall pay Teach For America an annual amount of \$5,000.00 for each year in which such Teacher is employed by School District, up to two years from the date such employment is to commence.
- v. With respect to each Teacher whose employment by School District is to commence in the 2015-2016 academic year, School District shall pay Teach For America an annual amount of \$5,000.00 for each year in which such Teacher is employed by School District, up to two years from the date such employment is to commence.

B. Non-refund. Teach For America shall have no obligation to refund to School District any amount paid by School District in respect of any Teacher for any reason whatsoever.

C. Invoicing. Teach For America will invoice School District for all amounts due hereunder with respect to any academic year within thirty (30) days of the start of the academic school year, provided that Teach For America's failure to timely do so, will not constitute a waiver of any of Teach For America's rights hereunder or constitute a breach by Teach For America of this Agreement.

D. Term. The term of this Agreement will cover the 2012 cohort of Teachers for the 2012-13 and 2013-14 academic years; the 2013 cohort of Teachers for the 2013-14 and 2014-15 academic years; the 2014 cohort of Teachers for the 2014-2015 and 2015-2016 academic years; and the 2015 cohort of teachers for the 2015-2016 and 2016-2017 academic years. This Agreement will expire at the conclusion of the 2015-2016 academic year, but all provisions applicable to the 2015 cohort of Teachers will remain in effect through the conclusion of the 2016-2017 academic year. This Agreement may be renewed at the end of the term on the same or substantially similar terms by mutual agreement of the parties.

E. Termination. This Agreement may be terminated as follows:

- i. at any time by mutual written agreement of the parties;

- ii. by either party, upon thirty (30) days' prior written notice to the other party, provided that the terminating party provides that notice no later than 120 days before the end of the current academic year; or
- iii. by either party upon written notice to the other party in the event of a material breach of this Agreement that is incapable of being cured or, if capable of being cured, is not cured within thirty (30) days following receipt by the breaching party of written notice of such breach from the non-breaching party.

F. Effect of Termination. Except as otherwise specifically provided, if this Agreement expires or is terminated by either party, it shall become void and of no effect without liability of any party (or any of its directors, officers, employees, agents, representatives or advisors) to the other parties; provided that no such expiration or termination shall relieve any party of any liability incurred by such party under this Agreement prior to such termination. In the event that this Agreement expires or is terminated by either party, Sections II.B. and II.C. shall survive and will remain in effect until such time as there are no Teachers in their second year of employment in School District. Sections III.F., III.G., III.H., and III.I. shall survive the expiration or termination of this Agreement indefinitely. Additionally, Teach For America will be entitled to all outstanding amounts due up to the date of expiration or termination.

G. No Warranty. School District hereby agrees and acknowledges that Teach For America does not make and has not made any representation and warranty as to the fitness of any Teacher presented or provided by Teach For America.

H. Limitation of Liability. Neither Teach For America nor any of its officers, directors, employees or agents shall be liable to School District or any individual partner or associate of School District for any Losses incurred by School District or such individual Partner School in connection with the matters to which this Agreement relates, except for a loss resulting from willful misconduct or gross negligence on the part of Teach For America; provided that in no event shall Teach For America and its officers, directors, employees and agents have any liability to School District or any such individual partner school in connection with the matters to which this Agreement relates in excess of the aggregate amount of payments made to Teach For America by School District pursuant to this Agreement or in connection with any Losses of which School District is primarily culpable.

I. Amendment/Modification. No amendment or modification of this Agreement, and no waiver hereunder, shall be valid or binding unless set forth in writing and signed by each party.

J. Non-Assignment. Neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be assigned, in whole or in part, by operation of law or otherwise by either party without the prior written

consent of the other party, and any such assignment that is not consented to shall be null and void.

K. Counterparts. This Agreement may be executed in counterparts (including by electronic transmission), each of which shall be deemed an original copy of this Agreement, and which, taken together, shall be deemed to constitute one and the same agreement.

L. Construction. The headings of Sections contained in this Agreement are for convenience only, and they do not, expressly or by implication, limit, define, extend, or construe the terms or provisions of the Sections of this Agreement. Any reference in this Agreement to gender includes all genders.

M. Governing Law. This Agreement shall be governed by, and construed and interpreted in accordance with the laws of the State of Alabama.

N. Severability. If any term or provision of this Agreement is determined to be illegal, unenforceable or invalid in whole or in part for any reason, such illegal, unenforceable or invalid provisions or part thereof shall be stricken from this Agreement, and such provision shall not affect the legality, enforceability or validity of the remainder of this Agreement. If any provision or part thereof of this Agreement is stricken in accordance with the provisions of this Section III.O., then such stricken provision shall be replaced, to the extent possible, with a legal, enforceable and valid provision that is as

similar in tenor to the stricken provision as is legally possible.

O. Notices. Any notice, demand, or other communication required or permitted to be given under this Agreement shall be in writing and shall be delivered to the address of such Party as set forth below:

If to Teach For America:

Tracy-Elizabeth Clay, Esq.
General Counsel
714 Market Street, Suite 420
Philadelphia, PA 19106

If to School District:

Dr. Casey Wardynski
Superintendent
200 White Street
Huntsville, AL 35801

IN WITNESS WHEREOF, each of School District and Teach For America has caused its duly authorized representative to sign this Agreement in the space provided below.

HUNTSVILLE CITY BOARD OF EDUCATION

By _____

Name: Dr. Casey Wardynski

Title: Superintendent,

Huntsville City Schools

Date:

TEACH FOR AMERICA, INC.

By _____

Name: J.W. Carpenter

Title: Executive Director, Teach

For America-Alabama

Date:

APPENDIX A

School Year	Agreed Number of Teachers
2012-2013	30 or more
2013-2014	40 or more
2014-2015	50 or more
2015-2016	50 or more

If Teach For America provides School District with a number of Teachers that is lower than the Agreed Number set forth above, this number of Teachers will constitute the Agreed Number for purposes of determining fees as set forth in Section III.A.

- i. Each cohort of Teachers employed pursuant to this clause is in addition to Teachers from prior cohorts employed by the School District and who are returning for their second year of employment.
- ii. If Teach For America provides School District with a number of Teachers that is lower than the Agreed Number, the actual number of Teachers provided will constitute the Agreed Number for purposes of determining any fees that the School District owes Teach For America.
- iii. In the event that Teach For America supplies the School District with any Teachers above the Agreed Number, School

District agrees to pay the agreed upon fees for the additional Teachers.

APPENDIX B

A. Hiring Process. School District and Teach For America will collaborate in good faith to facilitate the efficient hiring of individual Teachers.

- i. This obligation will include, to the extent permissible and feasible, the use of specialized hiring practices such as hiring fairs and telephone interviews.
- ii. School District and Teach For America will collaborate in good faith to identify individual schools within School District appropriate for Teachers.
- iii. In order to be considered an appropriate school (a "Partner School") for placement of a Teacher, (i) the school's student population must be considered high poverty relative to the student population elsewhere in the district and (ii) the school must have sufficient vacancies to enable the hiring/placement of at least two Teachers in the same academic year. To the extent reasonably practicable, School District will employ two or more Teachers per individual Partner School.

B. Eligibility Requirements. In order to be considered "eligible" for employment under this agreement, each Teacher candidate presented must meet the following criteria:

- i. The Teacher Candidate must have a college degree;
- ii. The Teacher Candidate must receive his or her teaching certificate from the State of Alabama; and

iii. The Teacher Candidate must be highly qualified, under the provisions of the No Child Left Behind Act, for all core academic subjects.