

INTERAGENCY 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

THE FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES, CIRCUIT 17

(hereinafter referred to as "DCF" and/or "the Department"), whose
principal place of business is 1400 West Commercial Boulevard., #210-C, Fort Lauderdale, Florida
33307; and

CHILDNET, INC

(hereinafter referred to as "Child Net"), whose principal place of business
is 1100 West McNab Road, Fort Lauderdale, FL 33309; and

CAREERSOURCE BROWARD

(hereinafter referred to as "CSBD"), whose principal place of business is 6301
Northwest 5th Way, Suite 3000, Fort Lauderdale, FL 33309; and

AGENCY FOR PERSONS WITH DISABILITIES, AREA 10

(hereinafter referred to as "APD"), whose principal place of business is 201 West Broward Boulevard,
Suite 305, Fort Lauderdale, FL 33301; and

THE FLORIDA DEPARTMENT OF JUVENILE JUSTICE, CIRCUIT 17

(hereinafter referred to as "DJJ") whose principal place of business is 2928A North State Road 7,
Lauderdale Lakes, FL 33313; and

BROWARD BEHAVIORAL HEALTH COALITION

(hereinafter referred to as "BBHC") whose principal place of business is
1715 SE 4th Avenue, Fort Lauderdale, FL 33316.

collectively hereinafter referred to as the "Parties".

WHEREAS, SBBC must fulfill its constitutional obligation to educate children of compulsory school
age; and

WHEREAS, this agreement addresses interagency collaboration to serve children found to be
dependent or in shelter care; and

WHEREAS, SBBC is the Local Education Agency (LEA) for the Individuals with Disabilities

Education Act (IDEA) and an administrative entity for Section 504 of the Rehabilitation Act of 1973 and must fulfill its obligations for educationally and relevant services to children and youth with disabilities that interfere with their learning or inhibit their access to the education environment before, during, and after the ages of compulsory school attendance;. Pursuant to IDEA, some students with disabilities are eligible to attend school up to age 22; and

WHEREAS, DCF is the state agency to provide, either directly or through contracted Community Based providers, the full range of child welfare services under Florida Statutes and Administrative Rules; and

WHEREAS, ChildNet is a private, not for profit agency and an independent contracted Community Based provider pursuant to F.S. 409.987 providing case management and related services on behalf of DCF for children known to the department; and

WHEREAS, CSBD is the local Regional Workforce Board providing either directly, or through contracted service providers, job training and employment services to Broward residents through federal workforce development grants via the Department of Economic Opportunity (DEO); and

WHEREAS, APD is the primary state agency responsible for administering human services programs provided to persons with developmental disabilities, as established in Chapter 393, F.S. (including the operation of all state institutional programs and the programmatic management of Medicaid waivers established to provide services to persons with developmental disabilities). The agency services people with intellectual disabilities, Down Syndrome, spina bifida, autism, cerebral palsy, Phelan McDermid syndrome, and Prader-Willi syndrome; and

WHEREAS, DJJ is the state agency that provides preventive, rehabilitative and intervention services for youth in the juvenile delinquency system. Specifically, for the purposes of this agreement, this means youth who are dually involved in both the dependency and delinquency systems, and referred to as "cross-over youth"; and

WHEREAS, BBHC is the local Managing Entity which oversees the state-funded mental health and substance abuse services through subcontracted providers in Broward County including EBD youth through the federal SAMHSA (Substance Abuse and Mental Health Services Administration) System of Care grant through Broward County Human Services; and

WHEREAS, the Parties acknowledge that the well-being of children, youth and young adults across child and youth serving systems and the progress of the children in appropriate educational and career/technical (vocational) programs requires a commitment of the Parties to work together. Further, stability within the educational setting and educational progress, including progress toward post-secondary education and employability skills through either vocational or post-secondary education are important to the children known to the Department serviced by all parties to this agreement; and

WHEREAS, F. S. 39.0016, defines children known to the department as children who are found to be dependent or children in shelter care; and for the purposes of this agreement children known to the department refers to children known to DCF or its contracted provider, ChildNet, and

WHEREAS, Section 39.0016(2), requires DCF to enter into an agreement with Florida

Department of Education and enter into this local agreements with SBBC, the local district school boards regarding "children known to the department" who are of school age and children known to the department who are younger than school aged but who would otherwise qualify for services from SBBC, and

WHEREAS, the children known to the Department covered by this agreement are those children and youth known to DCF who are being served through ChildNet while remaining in their own homes, and those who have been placed by DCF via ChildNet or by order of the Court in a licensed setting in a shelter home or facility, a foster family, a group home, or a residential child care institution or treatment facility, or in an unlicensed setting with a relative or non-relative, or any combination setting with a relative thereof; as well as those youth who have been placed in the legal custody of DCF and had their physical custody remanded to DJJ. Children who are known to have, or are suspected of having a disability must have access to all services that all children known to the Department are provided, and there are additional services that must be provided to such children by law under IDEA, §504 of the Rehabilitation Act, and Florida law; and

WHEREAS, the children known to the department, may have, or be "at risk" of developing academic and/or behavioral problems possibly due to the disruption in their lives and may require services, including, but not limited to, those included in the Guide to Improve Educational Opportunities for Florida's Foster Youth ("Guide") and defined by 1003.01 (3)(b) and (10); 1003.53; 39.0016(3) and 445.004 (10),F.S. and

WHEREAS, F.S. 1000.21 (5), provides the definition of parent to be "either or both parents of a student, any guardian of a student, any person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of the parent"; and

WHEREAS, FERPA regulations define a parent as "a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian;" and

WHEREAS, in the event of any conflict between FERPA regulations and state law, the FERPA regulations shall govern; and

WHEREAS, the provisions of F.S. 39.0016, establishes standards and not rights and do not require the delivery of any particular service or level of service in excess of existing appropriations and do not support a course of action against the state or any of its subdivisions, agencies, contractors, subcontractors or agents. These provisions do not require the expenditure of funds to meet the established goals of this agreement or of F.S. 39.0016 except funds specifically appropriated for such purpose; and

WHEREAS, the purposes of this Agreement are to promote collaboration among SBBC, DCF, ChildNet, CSBD, APD, DJJ, and BBHC to 1) ensure educational access and related care, including post-secondary pursuits, promote job training and employability skills and facilitate the delivery of services or programs to children known to the department; 2) avoid duplication of services or programs; and 3) combine resources to maximize availability or delivery of services or programs.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable considerations, 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 (Effective Date).** Unless terminated earlier pursuant to Section 3.05 of this Agreement the term of this agreement shall commence when executed by all parties and shall conclude on June 30, 2022.

2.02 **Outside Agreements.** This Agreement does not preclude or preempt any of the Parties from entering into non-conflicting agreements with other parties outside of this Agreement. Such agreements shall not nullify the force and effect of this Agreement.

2.03 **Dissemination of Agreement.** Each party agrees to disseminate this Agreement to appropriate personnel in each agency and to provide technical assistance in the implementation of the Agreement.

2.04 Definitions

- a. "Children known to the Department" and "youth" are synonymous and have the same meaning as defined in section 39.0016(1)(a), Florida Statutes (F.S.).
- b. "Department of Children and Families", or "DCF", when used in this Agreement, includes the department's contracted out-of-home care providers, or "Community Based Care agencies" and their subcontracted providers, as the context requires.
- c. "Parent" means either or both parents of a student, any guardian of a student, any person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of a parent.
- d. "Surrogate parent" means an individual appointed to act in the place of a parent in educational decision-making and in safeguarding a student's rights under the Individuals with Disabilities Education Act (IDEA) or pursuant to Chapter 39, F.S.

2.05 **Community Alliance.** In order to further improve the delivery of educational programs and other services to students known to the department, each party agrees to participate in the community alliance, currently operating in Broward County as The Children & Families Leadership Association, or the agreed upon designated entity as the same may exist from time to time.

2.06 **Coordinating Council.** Each party agrees to work with the Coordinating Council of Broward, or the agreed upon designated entity as the same may exist from time to time, to better coordinate the sharing of non-confidential information as authorized by state and federal laws and regulations so long as the sharing of said information does not conflict with FERPA or the policies and procedures of the parties or with any agreements between the parties that are not part of this agreement.

2.07 **Agency Collaboration.** In order to support continued collaboration, the Parties' representatives agree to meet, at a minimum, on a quarterly basis in order to:

- a) review each agency's rules, regulations, policies and practices as they impact the education, special education and related services, job training and employment of children known to the department;
- b) make recommendations to the Superintendent of Schools, the Community Development Administrator of DCF, the CEO of ChildNet, Inc., the President/CEO of CSBD, the CEO of BBHC, the Area Administrator of APD and the Chief Probation Officer for DJJ, Circuit 17 regarding procedures, processes, guidelines and policies as they impact children known to the department; and
- c) define and establish communication protocols, identify responsible staff, and facilitate prompt and substantive information sharing and communication between the Parties.
- d) provide minutes from the quarterly meetings to the DCF State Level Liaison.

2.08 **ChildNet Intake Facility (SafePlace).** SBBC agree to provide educational support/guidance services for SafePlace or its successor facility to:

- a) prepare an educational record review for each child that is processed through SafePlace and provide that review to ChildNet; and
- b) assist in the stabilization process by providing Child Advocates with educational record reviews on students in shelter and foster care as needed and appropriate, and for other children known to the department; and
- c) confirm the educational placement of children on runaway status; and
- d) contribute to the Comprehensive Behavioral Health Assessment and preliminary behavioral health screenings done at SafePlace; and
- e) act as a liaison between SBBC and agencies participating in the SafePlace.

2.09 **Court Liaisons.** SBBC and ChildNet agree to each provide a Court Liaison for shelter and dependency hearings. The court liaisons shall coordinate activities to achieve appropriate educational services for children declared dependent and receiving case management services from ChildNet. The SBBC Dependency Court Liaison shall be responsible for communication with the SBBC foster care designees to share the change in placement as reported at the dependency shelter hearings. The Dependency Court Liaison shall work collaboratively with the SBBC Delinquency Court Liaison to support the needs of cross-over youth.

2.10 **ChildNet Educational Services Specialist.** This position serves as a primary liaison to SBBC and provides advocacy within the agency, including consultation with Child Advocates, parents and providers regarding educational concerns. The Educational Services Specialist shall facilitate training on educational and school-related issues; and development and promotion of collaboration between child welfare and educational personnel. Other job duties include but are not limited to: consultation with school-based personnel and participation in school-based conferences and Individual Education Plan (IEP) meetings.

2.11 **Foster Care Designees.** SBBC agrees to identify a foster care designee for each school and to establish roles and responsibilities of the designee as part of the Fostering Student Success Program. The goal of the foster care designee is to support the academic achievement and social/emotional needs of students placed in foster care. Activities of the foster care designee shall include, but are not limited to, serving as a resource for school personnel and facilitating the provision of supportive services, encouraging a cooperative working relationship and involvement of the school with foster parents/group home staff, ChildNet staff, parents and others, as appropriate, and maintaining a confidential folder at the school containing information pertinent to the child's foster care status. SBBC Court Liaison will maintain

a current roster of school based foster care designees and provide any changes to the ChildNet Educational Services Specialist.

2.12 **Staff Development.** Each party agrees to promote the provision of training and staff development related to the implementation of this Agreement. Set training and staff development are crucial to assist each party working with children known to the Department to understand how that party's work affects the educational progress of these children, to break through the "silo" effect of the specific language, policies and programs of government, and to ensure that each party understands what all other parties have to offer these children. Trainings shall include information on the rights of the youth to an education, the legal requirement for school stability for children known to the Department, and the process for making the decision that a move to a new school is in the child's best interest, the role of and education in the development and adjustment of the youth and the proper and varied ways to access education and related services for the youth and the importance and strategies for parental involvement in education for the success of the youth. All parties will notify and invite all other parties whenever they will sponsor or offer a training that includes any of the subjects of the agreement or the Guide or that otherwise affects children known to the Department through the following initiatives and specific training requirements:

- a) SBBC and ChildNet will jointly update guidelines which affect each agency including, without limitation, compliance with FERPA, and incorporate these guidelines into the Fostering Student Success training manuals. Said manuals will be distributed to all foster care designees and Child Advocates at, or prior to, the start of the new school year and will be made available through ChildNet's intranet system and on line at the SBBC Student Services Department website, <http://www.browardschools.com/departments/dependency-and-delinquency> and
- b) ChildNet, in coordination with SBBC, shall incorporate an education component into all training programs for relevant staff regarding the youth. This training will be provided as part of the scheduled training for all new Child Advocates and as annual training sessions for procedural and informational updates and changes to the agreement. Training components shall include processes and activities related to the implementation of this Agreement and the Fostering Student Success training manual, information on the right of children known to the department to an education, the role of an education in their development and adjustment, the proper ways to access education and related services such as the Florida Diagnostic and Learning Resource Services (FDLRS), and the importance and strategies for parental involvement in education for the success of the student. Information provided shall include, but not be limited to, FERPA compliance, current Next Generation State Standards, educational issues that are currently provided by DOE, parental involvement and rights, surrogate parent requirements and other resources accessible through SBBC and DOE. This training should include information on career exploration, educational planning (SBBC's Naviance program, CHOICES, and MY FLORIDA SHINES; and
- c) ChildNet, in coordination with SBBC, shall provide training opportunities for foster parents (substitute care givers or providers), on educational issues to support their role in the educational life of the foster care child, to include the rights of the youth to an education, the role of an education in the development and adjustment of a child, the proper ways to access education and related services, and the importance of, and strategies for, parental involvement in education for the success of children; and
- d) ChildNet, in coordination with SBBC, shall provide training opportunities for parents in cases in which reunification is the goal, or for pre-adoptive parents when adoption is the goal, so that parents can learn how to access the services needed to produce positive educational outcomes for the youth or the child known to the department, and the importance of their involvement in the child's education and life

of the youth. Parties involved in this agreement shall identify training topics and delivery mechanisms as a component of this local agreement activities, and

e) ChildNet shall promote practices that engage Child Advocates and foster parents in the education of children known to the department such as attendance at parent-teacher conferences, school open houses, and other events significant to the education of the child and creating the message to the child that his or her education is important to the adults in his or her life; and

f) SBBC, in coordination with ChildNet, shall provide training opportunities for the school-based foster care designees and other school district personnel. Training components shall include FERPA compliance, the processes and activities related to implementation of this Agreement, the effects on abuse and neglect on children, including trauma and sexual abuse, mental health first aid, substance abuse and the Fostering Student Success manual; and

g) SBBC, in coordination with ChildNet, shall provide training opportunities for the APD waiver support coordinators, group home providers and other identified APD personnel or providers. Training components shall include FERPA compliance, the processes and activities related to implementation of this Agreement and the Fostering Student Success manual; and

h) SBBC, in coordination with ChildNet, shall provide training opportunities for the DJJ probation officers and other identified DJJ personnel or providers. Training components shall include FERPA compliance, the processes and activities related to implementation of this Agreement and the Fostering Student Success manual; and

i) SBBC agrees to provide training for potential surrogate parents. The training will include eligibility, FERPA compliance, IEP and placement processes for students with disabilities. Additionally, training will include: how the ability to learn is affected by abuse, abandonment, neglect, and removal from the home and an overview of the local child welfare system; and

j) Guardians ad Litem and foster parents may attend surrogate parent training offered by the SBBC. Guardian's ad Litem who successfully complete Surrogate Parent training may be given priority for appointment to youth to whose case they are assigned.

k) SBBC, ChildNet and DCF recognize the importance of training and sharing information about a child's education with other interested parties within the constraints provided by FERPA and other applicable state and federal laws and regulations. SBBC will share information on existing training opportunities with ChildNet. ChildNet will inform interested parties of these opportunities.

l) SBBC shall participate in the state's Dependency Court Improvement Project Summit and other conferences, including providing suggestions for topics and training materials; and

m) SBBC shall promote the practice of allowing Guardians ad Litem and foster parents to attend surrogate parent training offered by the district or shall arrange such training opportunities specifically for those target populations; and

n) The parties will work in cooperation with private and public entities that contract with or work in collaboration with the DCF and ChildNet to provide services to children known to the department. These efforts will include training for Guardians and Attorneys Ad Litem, the Attorneys for the Children's Legal Services, bureau of the Florida Office of the Attorney General, and Office of Criminal Conflict and Civil Regional Counsel attorneys on educational issues.

o) Parties in this agreement shall promote the practice of allowing Guardians Ad Litem and foster parents to attend surrogate parent trainings offered by SBBC Exceptional Student Education (ESE) staff or other persons designated by SBBC. This includes the promotion of the use of the FDLRS in the recruitment and training of surrogate parents (34 C.F.R. section 300.519). DOE will request information from SBBC as to its surrogate parent program, including recruitment, training and appointment, and will annually provide information to the parties on this, and the invitation to and participate by Guardians ad

Litem and children’s caregivers, including foster parents and others. When the goal is reunification, the parent(s) may attend this training.

2.13 **Student Records.** Each party to this Agreement agrees to protect the rights of students and clients with respect to records created, maintained, and used by public institutions within the state in accordance with state and federal law. It is intended that parents/guardians, students and clients have the rights of access, challenge, and privacy with respect to educational records and reports, and that there will be strict adherence to FERPA and to all applicable laws and regulations pertaining to those rights. Pursuant to Title XX USC section 1232g, an educational agency or institution has up to 45 days in which to comply with parental requests. State Board Rule 6A-1.0955(6)(b) mandates compliance within 30 days.

Chapter 39, Florida Statutes, provides parameters regarding information disclosure to the parents of a child that is in out-of-home care. Said law permits disclosure of certain reports to parents; however, if by Court Order the parent is not permitted visitation or has had their parental rights terminated, the law allows for the redaction of any information that discloses the location of the child, inclusive of school(s) attended to further ensure the youth's safety and well-being. Accordingly, for children in foster care or children removed from the caretaker's home and placed in a shelter, federal and state laws shall be complied with and without the disclosure of any child's location when said disclosure places the child in danger.

The Uninterrupted Scholars Act of 2013 permits SBBC to release student education records to "an agency caseworker or other representative of a State or local child welfare agency, or tribal organization (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), who has the right to access a student's case plan, as defined and determined by the State or tribal organization, when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student." For the purposes of this agreement DCF and ChildNet are deemed the local child welfare agency. Students for whom DCF and ChildNet may receive records without parental consent are defined as children for which there is an open dependency case and the child is placed in an out-of-home care settings.

Pursuant to the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, 34 CFR Part 99.38, the information provided shall be limited to that which is necessary to effectively serve the student and the officials receiving the information hereby certify by signing this Agreement that the information will not be re-disclosed to any other party except as provided by law which requires consent or pursuant to an exception. SBBC shall share with the parties participating in this Agreement the student information contained in the following school district data fields in order to support the parties' collaborative strategies and programs to provide a coordinated overlay of services to students:

- A01 - Student Name Search
- A03 - Demographics
- A04 - General Admission
- A05 - Contact Information
- A06 - Health Information
- A07 -Assignment History
- A10 - Current Schedule
- A12 - Current Grades
- A13 - Academic History
- A14 - Graduation Status
- A15 - Daily Attendance Summary
- A17 - Absence Detail
- A23 - Special Programs

A24 - Discipline
L20 - Psychological Services;
L25 through L27 - Student Support Tracking System.

2.14 **Sharing of Information**. The parties agree that it is their desire to share information and that such information sharing between systems is essential to providing effective services to children known to the Department. Having agreed to the desired educational outcomes for children, the parties agree to work with one another to share necessary information to the maximum extent possible within the confines of confidentiality and privacy laws, including Chapter 39, F.S., and federal Family Educational Rights and Privacy Act (FERPA) as amended by the Uninterrupted Scholars Act (P.L. 112-278), and the Every Student Succeeds Act. The parties also agree to use child-specific information only for the purposes intended in this agreement and to protect confidential information from unauthorized and unnecessary redisclosure. The parties also agree that in utilizing the Department's FSFN system or any other data system containing child-specific information, they will only seek information for individual children known to the Department or for individual children who are the subject of a meeting convened at the local or state level to resolve that child's situation.

The Uninterrupted Scholars Act (P.L. 112-278) amends FERPA to allow educational agencies and institutions to disclose a student's education records without parental consent, to a caseworker or other representative of a State or local child welfare agency or tribal organization authorized to access as student's case plan "when such agency or organization is legally responsible, in accordance with State or tribal Law, for the care and protection of the student..." The Uninterrupted Scholars Act also allows educational agencies and institutions to disclose a student's education records pursuant to a judicial order without requiring additional notice to the parent by the educational agency or institution when the parent is a party to the case.

The Every Student Succeeds Act (P.L. 114-95), reauthorizes the Elementary and Secondary Education Act of 1965 (ESEA). The Act reauthorizes the nation's national education law and strives to ensure equal opportunity for all students. The law requires that schools will now include educational outcomes for children known to the Department in the state report cards. Schools are also required to collaborate with child welfare agencies to ensure children are able to stay in their school of origin when it is in the child's best interest. This collaboration will require the school districts and community based care agencies to share information.

Pursuant to the Legislative intent as enumerated in section 985.046, Florida Statutes, each party agrees:

a) to promote to the fullest extent permissible and in compliance with federal law, Florida Statutes, including but not limited to Chapters 39, 984 and 985, F.S., and sections 163.64, 1002.22, 1992.221, F.S., and Administrative Rules and in furtherance of the work of the Children and Youth Cabinet, the sharing of information on the youth at both an aggregate and individual level when it is relevant to their educational growth including post-secondary pursuits, job training, employment, and other benefits;

b) that it may be necessary to restrict information sharing due to statutory prohibitions in FERPA and restrictions other than those enunciated in 39.202, F.S. It is understood that the sharing of student records, including the sharing of psychological evaluations with parental or custodial consent does not abrogate the confidentiality of the records as to other non-designated parties. Similarly, it is understood that the sharing of DCF case information with parental or custodial consent does not abrogate the confidentiality of the records as to other non-designated parties.

c) to collaboratively continue to improve the technical interface among state and local automated data systems of the Parties to provide for the efficient sharing of information;

d) To promote the sharing of all information, including lists of services available of the parties in this agreement, on an on-going basis. In particular, DOE shall promote the services available within Broward County Public Schools that are reasonably necessary to meet the needs of, and to facilitate educational access for children known to the Department. A listing of these services shall be provided by the SBBC liaison to CSBD, DJJ, APD, DCF, and ChildNet staff. The services identified shall include, but not be limited to, current Next Generation Sunshine State Standards, the Surrogate Parent Training Manual, diploma options, graduation requirements, virtual school, career/technical (vocational) programs and other resources accessible through DOE or SBBC to facilitate educational access for a youth. CSBD shall promote the identification of employment and training services available and the availability of a listing of these services for SBBC, DCF and ChildNet staff.

e) In circumstances that constitute a health and safety emergency under 34 C.F.R. section 99.36, such as a Child Protective Investigation conducted by DCF or Broward Sheriff's Office, to determine whether a child has been abused, neglected or abandoned, neither a parent's consent nor a court order is necessary to share personally identifiable student information.

f) That personally identifiable information of children known to the Department is allowed to be disclosed to DCF and the Community Based Care Agencies or their contractors, who are legally responsible for case planning and for the care and protection of the student without parental consent. Efforts should be made to share electronic student data across systems, in full compliance with state and federal confidentiality requirements, particularly FERPA, as modified, to provide and improve services and resources needed to meet the needs of children, families, and caregivers; to achieve continuous improvement across programs; and to make informed public policy decisions to improve the level of education achievement for children known to the Department through an examination of barriers and promising practices, enabling the creation of individual and collaborative programs to eliminate barriers and include promising practices without duplication of services. The Director of Information and Technology, School Application, and the Dependency Courts Liaison, shall ensure only the information for those students who meet the criteria for electronic data to be shared will be made available.

g) That DCF, APD, and DJJ shall promote the maintenance of current databases of clients/consumers and their respective caseworkers or waiver support coordinators and the periodic updating of these databases to reflect changes, and shall periodically provide this information to the other parties involved in this agreement.

h) DCF shall provide read only access to SBBC Liaison to its Florida Safe Families Network case management system ("FSFN"). SBBC shall comply with the state level protocol for FSFN Access, under section 39.0016(2)(A), F.S. This protocol shall establish the use of FSFN by school district personnel to include:

- 1) Type of information to be accessed;
- 2) Security issues;
- 3) Number of individuals having access in each school district; and
- 4) An understanding that this information concerns only students place in an out of home care by

DCF and cannot be used for any other purposes.

i) That DCF shall ensure that basic information about the child and the persons in the child welfare system working with the child is made known to SBBC schools:

- 1) The notification by DCF staff to SBBC and its schools in which a child known to the Department is enrolled of the name and phone number of the child, the child's caregiver, the child's designated educational decision maker including the surrogate parent if one is appointed by the court, the

child's caseworker, and other designated persons. This information must be provided to the school and SBBC's Foster Care Liaison (FCL) at initial removal, and at any change in the child's status that affects the delivery of services under this Agreement.

2) DCF, ChildNet (Community Based Care providers) shall ensure that notification of the child's placement and custody status be provided to the assigned school at the time of the status change in foster care status or no later than 72 hours subsequent to the change. A change in caseworker shall result in notification to SBBC and its schools.

j) ChildNet shall take all steps necessary to gain consent from the court, parent(s) and/or legal guardian of the child to enable the school district and CSBD to provide to DCF and ChildNet the educational and job training records for children known to the department, under department supervision, not removed from their parent/guardian; this shall include and not be limited to a FERPA release form signed by the youth's guardian or parent.

k) ChildNet shall provide to SBBC an updated weekly electronic list of children residing in both licensed and unlicensed care in order to confirm the identity of the youth who are actively enrolled in school and their location;

l) ChildNet shall maintain a current database of clients and their respective Child Advocates and the Child Advocate shall notify SBBC's Foster Care Program Office of changes via the Foster Care School Registration Form. SBBC's Foster Care Program Office staff shall transmit the updated information to the school-based foster care designee upon receiving written parental consent to release educational records or court order requiring the release of educational records to ChildNet and after providing advance notice to the parent as may be required by law;

m) ChildNet shall inform SBBC immediately to provide prompt access to the Free and Reduced Lunch Program upon notification of a child's change of status to "foster care";

n) SBBC shall, provide electronically to ChildNet, a transcript of the academic record for students, residing in licensed and unlicensed-settings at the time, based on a weekly client list provided by ChildNet designee upon receiving written parental consent to release educational records or court order requiring the release of educational records to ChildNet and after providing advance notice to the parent as may be required by law. Data shall include, but not be limited to, school assignment, attendance, test scores, and ESE eligibility;

o) SBBC shall make every effort to provide ChildNet any general notices sent to district parents that do not concern a particular student so that Child Advocates can be involved to promote school success;

p) ChildNet shall provide SBBC a copy of the Foster Care School Registration Form at initial removal and any subsequent change in a child's status in foster care that affects the delivery of services under this Agreement. Attached to that Registration Form shall be a copy of any court order that prohibits the parent or any other person from contact with the student and any other court order, which may be relevant to the child's educational program or setting;

q) ChildNet shall ensure that the Foster Care School Registration Form and its attachments are provided to SBBC at the time of the status change in Foster Care status or no later than 72 hours subsequent to the change. The Foster Care School Registration Form ensures that school personnel have all necessary information to provide for the health and safety of the child. Any delay in the receipt of the Foster Care School Registration Form could place the child's safety in jeopardy. A change in Child Advocate, school or placement shall result in the submission of a new electronic alert to SBBC with a revised Foster Care School Registration Form so that the school has accurate contact information;

r) ChildNet shall maintain a protocol to monitor the delivery of the Foster Care School Registration Form;

s) ChildNet shall ensure that current psychological/psychiatric evaluations that were purchased by DCF or ChildNet or its contracted agents which contain relevant information related to the education needs of the child, shall be provided to the SBBC foster care designee, upon specific request by said designee or when relevant, who shall ensure that the information is considered in determining the educational services recommended to meet the needs of the child. A court order for the exchange of psychological/ psychiatric evaluations may substitute for a release, if it is determined by the court to be in the best interest of the child. If ESE services are recommended, the appropriate education procedures shall be followed;

t) DCF and ChildNet shall ensure that SBBC has access to Florida Safe Families Network (FSFN) case management system to obtain information about children known to the department; SBBC shall ensure that Easy IEP is updated to include foster care designation so ChildNet may access records for those children in out-of-home placements;

u) DCF and ChildNet shall be required to present written parental consent or court order/subpoena in order to receive educational records for a student residing with his/her parent. If the court order is issued in the context of a court proceeding involving child abuse and neglect (as defined in section 3 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note) where the parent is a party to the case, additional notice to the parent by SBBC is not required.

v) DCF and ChildNet shall not re-disclose the education records, or the personally identifiable information contained in such records, except to an individual or entity engaged in addressing the student's education needs and authorized by such agency or organization to receive such disclosure. Consistent with FERPA regulations, if it is determined that DCF or ChildNet fails to adhere to this re-disclosure requirement, SBBC may take action to ban the responsible entity from access to educational records for a minimum of five years.

w) SBBC shall provide an annual report on student achievement and graduation rates for students in foster care.

2.15 Family Educational Rights and Privacy Act (FERPA) Compliance.

In addition to the requirements under section 2.13, Student Records, agencies will comply with the requirements of Attachment A, Safeguarding the Confidentiality of Student Records and Information.

2.16 Health Insurance Portability and Accountability Act (HIPAA) Compliance.

SBBC will be considered the "covered entity" in this agreement, with the other agencies in the "business associate" role. Agencies further acknowledges that the federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH Act") (HIPAA and HITECH Act are collectively referred to herein as "HIPAA") protect the privacy of students' individually identifiable health information ("PHI") and may be applicable to student records in certain circumstances. PHI may be used and disclosed only in compliance with HIPAA, where required by law.

Agencies will safeguard students' PHI through administrative, physical and technological safety standards and ensure adequate controls are in place to protect students' PHI in accordance with HIPAA's privacy requirements.

Agencies will enter into SBBC's HIPAA Business Associate Agreement ("BAA") substantially in the form attached hereto and incorporated herein as Exhibit B.

The Agencies in this agreement will be providing HIPAA-covered services pursuant to this agreement. BBHC acknowledges that the federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH Act") (HIPAA and HITECH Act are collectively referred to herein as "HIPAA") protect the privacy of students' individually identifiable health information ("PHI") and may be applicable to student records in certain circumstances. PHI may be used and disclosed only in compliance with HIPAA, where required by law.

BBHC will safeguard students' PHI through administrative, physical and technological safety standards and ensure adequate controls are in place to protect students' PHI in accordance with HIPAA's privacy requirements.

BBHC will enter into SBBC's HIPAA Business Associate Agreement ("BAA") substantially in the form attached hereto and incorporated herein as Attachment B.

2.17 Educational Stabilization. In order to facilitate the school attendance necessary for academic achievement, the Parties will ensure continuation of youth in the school of origin when in the youth's best interest. The parties will ensure when it is determined that remaining in the school of origin is not in the youth's best interest that the youth will be immediately enrolled in the new school. SBBC will ensure a rapid transfer of records whenever a student changes schools. Pursuant to the 2015 Amendment in Title I Part A of the Elementary and Secondary Education Act, students in foster care may remain in their school of origin, unless a determination is made that it is not in their best interest.

Specifically, but not exclusively, the Parties will discourage practices that remove children from school to attend appointments and dependency court dates, and nonemergency changes of placement during a school quarter or semester. This Agreement ensures that-SBBC and DCF/ChildNet shall take the following steps to support school stability for children who are known to the Department who experience a placement or custodial change:

- a) Promote program initiatives to facilitate the effective and efficient delivery of education and related services to eligible children placed in licensed shelter care, and other out-of-home settings;
- b) Promote the placement of children in shelter care and foster care homes within or closest to their home school boundaries to facilitate stabilization of school placements;
- c) Promote the provision for children known to the Department who are in an out-of-home placement to remain in their school of origin when they move to a placement in a new school zone, including procedures to determine if remaining in the school of origin is in the child's best interest;
- d) Promote the provision of transportation to the school of origin for children living in an out-of-home placement;
- e) Promote the immediate enrollment in the new school when the required documents are not available if it is determined that it is not in the best interest of the child to remain in the school of origin;
- f) Promote recognition of the authority of foster parents to enroll the children who are in their care in school;
- g) Identify and recommend the removal of any statutory or administrative rule, policy or practice that creates a barrier to prompt and continuous enrollment in an appropriate school or program for students;
- h) If remaining in the school of origin is deemed to not be in the child's best interest, then the

change in educational settings should be made at logical junctures, including during school breaks, and at the end of a grading period. Once the decision to transfer the child to another educational setting has been made and a logical juncture identified, the child should be immediately enrolled in the new school at the identified time to avoid any absences in attendance.

i) ChildNet and the SBBC will jointly collaborate to ensure a best interest determination that includes input from relevant parties and documentation on the School Stability Checklist. This discussion will be initiated between the Child Advocate and the Foster Care Designee at the school to identify and include the individuals who have knowledge of the student to make this determination.

j) If it is the child's best interest to enroll in a new school, the SBBC will grant enrollment without delay, even if the records normally required for registration are unavailable. If transferring within the school district, the SBBC will request the School Stability Checklist that documents it is in the best interest to transfer the student. The new school will request records from the previous school, and ChildNet will assist with obtaining the educational records and ensuring that the School Stability Checklist, if applicable, is provided.

k) Provided a determination is made that it is in the child's best interest to enroll in the new school, foster parents and other approved caregivers of children known to the department have the authority to enroll the children in their care in school pursuant to section 1000.21 (5), definition of a parent.

l) Both agencies will demonstrate due diligence that a child is not withdrawn from a School without a signed School Stability Checklist (if applicable) that confirms that such withdrawal is approved.

m) ChildNet will include a plan for school stability in the case plan, and documentation of the best interest determination will be made in FSFN.

n) the Parties develop and support program initiatives to obtain the authority necessary under FERPA necessary to facilitate the effective and efficient delivery of education and related services to eligible students known to the department;

o) ChildNet and SBBC staff shall follow guidelines and procedures as identified in the Fostering Student Success training manuals to protect the confidentiality of educational records under FERPA, promote educational stability and request transportation when appropriate.

2.18 Transportation.

The designated Parties below agreement to promote the availability of transportation resources for children who are known to the Department to ensure that they remain in their school of origin and access education, job training, and employment services, as follows:

a) Per ESSA, the school system and child welfare agency shall have a written plan regarding transportation. This plan is included by reference. SBBC shall make every effort to provide transportation for students living in out of home placement when it is in the best interest of the student to attend their school of origin which is not within the approved school assigned boundaries of the shelter/foster care home location. Other transportation requests to maintain school of origin will be determined on a case-by-case basis. Requests for transportation are processed within 10 business days of receipt of the request by the SBBC Transportation Department. Notice of approval or denial of transportation will be reported to the assigned Child Advocate, the ChildNet Administrator responsible for coordinating transportation, and the foster care designee. SBBC Court Liaison, upon confirmation by the SBBC Transportation Department, will provide the notice;

b) SBBC shall provide transportation to maintain children in foster care in the school of origin. If there are additional costs incurred in providing transportation to the school of origin, SBBC will provide transportation if:

- 1) DCF or ChildNet (or its Community Based Care providers) agrees to reimburse SBBC for the cost of such transportation;
- 2) SBBC agrees to pay for the cost for such transportation or
- 3) SBBC, DCF, ChildNet, (or its Community Based Care providers) agree to share the cost of such transportation.

c) DCF and/or ChildNet shall retain the responsibility to coordinate temporary transportation for children to and from school during the time that SBBC transportation is being arranged;

d) DCF and ChildNet will explore the use of Title IV-E funding for alternative transportation options as the purchase of a public bus system pass;

e) DCF and SBBC shall explore the funding of transportation and assess the availability of federal, charitable, or grant funding for such transportation;

2.19 Case Planning.

The Parties agree that all case plans relating to a child should be coordinated between and among agencies that are party to this agreement. To avoid duplication of services or programs and promote the combining of resources to maximize the delivery of services and educational success of children known to the department the parties agree:

a) The Parties shall promote the involvement of SBBC, APD, and DJJ, when appropriate, and CSBD personnel in the DCF dependency case planning process, and in one another's planning process, as appropriate to effectively address educational, developmental or other disabilities, job training and employment issues regarding the child. DCF/ChildNet shall notify the appropriate service-delivery staff of each agency involved with the child, of DCF case planning for a child, both at the time of plan development and plan review. Within the plan development or review process, SBBC may be asked to provide relevant education information regarding the child. DCF/ChildNet shall provide this notification to the CSBD when there is documentation in the DCF case file of a youth's involvement in Workforce services and the proper releases have been provided; this shall include and not be limited to a FERPA release form signed by the youth's guardian or parent. DCF/ChildNet shall notify APD when a child whom APD has determined is eligible for APD services, whether he or she is receiving services or is on a waiting list, has been found to be dependent or placed in shelter care. Further, if there is reason to believe the child needs to be referred for APD services and has not been so referred, the DCF/ChildNet person responsible for the case shall make the appropriate referral as soon as practicable. APD shall advise if a waiver support coordinator has been assigned to the child and provide contact information so that person may also be invited to the dependency case planning when appropriate. DJJ will participate when appropriate in dependency case planning. Each party shall similarly invite the staff providing services to the child for all planning meetings, and shall also invite the child as developmentally appropriate. All parties providing services to the child shall encourage line staff to provide time schedules for planning and review sessions, court hearings, and other meetings concerning the child, and shall encourage their staff to coordinate their actual planning to avoid duplication of efforts and services, and to promote maximum utilization of the services offered to the child to avoid a failure to provide essential services.

b) SBBC shall provide individualized student intervention for all students, when appropriate and when individual student academic or behavioral needs require and intervention. Individual interventions are also provided to students with disabilities who have individual education programs (IEPs) or Section 504 plans when a determination has been made through legally appropriate criteria that intervention services are required. The intervention or (IEP) must include strategies that promote the attainment of

educational goals;

c) SBBC and ChildNet will, conduct a comprehensive educational review/staffing of all children in licensed and unlicensed placement to identify strengths, needs and required interventions to maximize academic achievement in the current school setting and post-secondary options.

d) SBBC and ChildNet shall cooperate in ensuring that each child who has or is suspected of having a disability has a legally appropriate educational decision-maker and identify that person in the case plan for each agency providing services to that child. If the school system or the court has appointed a surrogate parent for education decision making, that individual shall be invited to the portion of the case plan review regarding the child.

e) SBBC will provide an educational review report to ChildNet's Educational Services Specialist and the respective provider, for youth admitted to group home or residential treatment settings to facilitate appropriate educational planning efforts;

f) SBBC, ChildNet, and APD will conduct quarterly case reviews of all children known to the department who are on the waitlist for the APD Medicaid waiver to coordinate services and ensure a comprehensive plan of care is in place.

2.20 Opening and Closing of Licensed Residential Programs. ChildNet, APD, BBHC, and DJJ shall provide 30 days written notice when feasible to the SBBC and CSBD prior to opening or closing a group residential program, serving school-aged youth, to allow sufficient time for program and resource planning.

2.21 Parental Rights/Exceptional Student Education (ESE).

In order to ensure that children known to the Department receive an appropriate education consistent with IDEA and state implementing laws, rules and assurances, the coordination of services for a student who has or may have a disability may include:

a) Referral for screening and evaluations to determine eligibility and Intervention activities (Response to Intervention and SBBC Comprehensive Problem-Solving Processes);

b) Sharing of evaluations between SBBC and ChildNet, as appropriate;

c) Provision of specially designed instruction, special education and related services appropriate for the needs and abilities of a student;

d) Coordination of services and plans between the school and the student's residential setting to avoid duplication or conflicting service plans.

e) Appointment of a surrogate parent by the school district or the dependency court, when the child's parent or care giver cannot be located or is unable or unwilling to be the child's education decision maker, consistent with the IDEA, for educational purposes for a student who qualifies as soon as the student is determined to be without a parent to act for the student. A surrogate parent shall be appointed as provided by law with consideration given to individuals who know the child, and recommendations made by DCF/ChildNet and the courts, without regard to where the child is placed, so that one surrogate parent can follow the education of the child during his or her entire time in state custody (34 C.F.R. SS. 300.519 and 39.0016, F.S.)

f) If the natural parent, defined as biological or adoptive, or legal guardian is known, their whereabouts have been determined, and a court has not prohibited their right to make educational decisions for the child, the parent/guardian maintains the right and responsibility to represent the child in educational decisions. The Code of Federal Regulation 34 CFR 300.30 prohibits DCF and ChildNet from signing in lieu of parent.

2.22 Determining Need for a Surrogate Parent. When a student has, or is perceived to have a disability, the need for a surrogate parent must be determined by SBBC or the court on a case-by-case basis consistent with applicable law. The surrogate parent shall be appointed with consideration given to individuals who know the child, and recommendations made by ChildNet and the courts, without regard to where the child is placed so that one surrogate parent can follow the education of the child during his or her entire time in state custody. The child's Guardian ad Litem, if a trained surrogate, shall be given first option to serve as the student's surrogate. The Parties acknowledge and agree as follows:

- a) not all students in foster care are ESE students;
- b) not every student in foster care who is an ESE student requires the appointment of a surrogate parent;
- c) SBBC shall collect data on the following elements: the number of requests for a surrogate parent; whether the request is approved or denied; and when denied, the reason for denial and
- d) ChildNet will notify SBBC when a child's change of placement or legal status makes them eligible for a surrogate or when a surrogate is no longer necessary.
- e) The judge overseeing the dependency case may make a finding that there is no parent, as defined under 34 CFR 300.30, available, able or willing to serve as parent for exceptional education purposes. The court may appoint a specific individual, who meets the surrogate parent requirements, including completion of DOE approved training, to serve as the child's surrogate parent, or may direct the school district to appoint a surrogate parent.
- f) A surrogate parent properly appointed by another school district or court will be accepted as such, by SBBC, without regard to where the child is receiving residential care, provided that individual is willing to continue to serve in this capacity.
- g) SBBC shall notify ChildNet of the contact information for the appointed surrogate. ChildNet Child Advocates shall make effort to include the assigned surrogate in case planning activities and provide them with notice of any judicial reviews so that their input, and/or testimony may be heard by the court.

2.23 Surrogate Parent/Regular, Medical and Enhanced Foster Care Homes. When a child is adjudicated dependent, is placed in a licensed foster home and identified ESE or potentially ESE, the foster parent may serve as the parent for educational purposes if either, a) the natural parent is unknown, b) if the parent's whereabouts cannot be discovered, or c) the natural parents are prohibited by the court from being involved in the child's education. A surrogate parent appointment is not necessary unless the foster parent expresses an inability or unwillingness to serve as parent or the judge overseeing the dependency case makes a legal finding that there is no parent, as defined under 34 CFR 300.30, available, able or willing to serve as parent for exceptional education purposes.

2.24 Surrogate Parents/Therapeutic and Residential Care. When a student who is ESE or perceived to be ESE and is in a DCF licensed residential program, including shelter homes/facilities, group care, therapeutic foster care, specialized group homes, residential facilities, APD homes, BBHC funded residential program, or DJJ facilities, a surrogate must be appointed for:

- a) students whose parent's whereabouts or identity is unknown;
- b) students for whom the court has terminated the parent's rights; and
- c) students, as determined on a case by case basis, who are entitled by law to a surrogate but who do not fit the criteria for children identified in a) or b).

Operators and staff of the above listed placements may not serve as parent or surrogate parent for a student in their care.

School personnel and ChildNet Child Advocates shall encourage the participation of caregivers in

any ESE staffing or meeting to ensure both comprehensive input and discussion regarding the child's needs and strengths as well as promote collaboration and communication among those involved with the child.

2.25 Psycho-educational and Psychological Assessments:

a) DCF, ChildNet and APD shall require contracted agencies and individuals performing psycho-educational assessments of children known to the department to use evaluation instruments and procedures that are consistent with DOE and SBBC requirements as outlined in SBBC's Special Programs and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students; and

b) SBBC agrees to consider assessments of students known to the department completed by DCF and ChildNet and APD contracted agencies and individuals when they are consistent with evaluation instruments and procedures established by SBBC.

2.26 Early Intervention. SBBC, ChildNet and APD shall collaborate to develop and implement protocols for identifying preschool age children who may qualify for early intervention services, including Part C of IDEA, Voluntary Pre-Kindergarten and Headstart and part B of IDEA for youth over 3 years old. The protocols shall ensure compliance with the Child Abuse Prevention and Treatment Act (CAPTA) requirements for a referral to Early Steps (Part C provider) for eligible children.

2.27 Transition Services. ChildNet and SBBC agree to promote coordinated activities as required by IDEA, for each youth who has or is suspected of having a disability and is 14 years of age and older. The activities should focus on improving the academic and functional achievement of the youth from school to post-school activities, including postsecondary education, vocational education, adult education, employment and independent living. The collaboration shall be designed to enhance but not supplant SBBC responsibilities under IDEA. SBBC agrees to meet the expectations as stated in federal law and regulations and state statues and rules regarding transition services for students with disabilities. The Parties recognize the importance of encouraging post-secondary pursuits for children known to the department and agree to work collaboratively to encourage continued education for as many youth as possible. The parties also recognize the importance of support and employment for children receiving transition services and collaboratively agree that:

a) SBBC and ChildNet shall continue to collaborate for youth 14 years of age and over to include a transition plan for ESE students. The collaboration will work to ensure educational progress and to assist students in acquiring essential independent living skills. ChildNet staff will be made available to participate in SBBC ESE transition staffing. SBBC shall provide to ChildNet staff a list of secondary courses that integrate IL skills in the curriculum.

b) ChildNet, BBHC, and SBBC shall collaboratively provide training annually for ChildNet staff on a variety of educational and post-secondary topics, including youth transitional supports through BBHC/One Community Partnership 2.

c) SBBC shall promote and develop strategies for providing ongoing guidance support for children known to the department to ensure that they are aware of post-secondary options. This shall include, but not be limited to notice of all available scholarship opportunities.

d) CSBD shall provide ChildNet with a description of the referral processes for employment and training services, provide information about career awareness opportunities to the ChildNet contact person, and provide information and training for various stakeholders about the available service array. Where possible information will be shared through the Internet, including details regarding Provider Collaboration Meetings.

e) BBHC will provide ChildNet and SBBC with a description of the referral processes for youth with behavioral health needs that include the Transition to Independence Process (TIP), Supported Employment, supported Education, Supportive Housing, and peer support services through the One Community Partnership 2 grant; including providing information and training for various stakeholders about the available BBHC service array.

f) ChildNet and SBBC will regularly attend the BBHC OCP2 Leadership/Implementation Committee Meetings.

g) ChildNet will regularly attend the CSBD's Providers Collaborative meetings.

h) ChildNet staff will provide SBBC with copies of transition/education plans and SBBC will ensure that ChildNet staff have copies of students' IEP to ensure coordination of transition services.

i) SBBC will regularly attend the Transition to Independent Living (TIL) Steering Committee meetings, as well as any applicable sub-committees.

2.28 Pursuit of Postsecondary Education.

The Parties recognize the importance of encouraging postsecondary education pursuits for the youth and agree to work collaboratively to encourage continued education to the highest level achievable. SBBC will assist the Parties with the education of youth or former youth "known to the Department." SBBC shall promote the provision of ongoing guidance support for the youth to ensure that they are aware of postsecondary options as to all relevant school and financial opportunities.

Agency Designees. The Parties agree that:

a) SBBC'S designee for the purpose of executing and administering this Agreement shall be the Superintendent of Schools, who may assign a designated administrator for the purpose of monitoring this agreement;

b) DCF's designee for the purpose of executing and administering this Agreement shall be the Community Development Administrator, Circuit 17, who may assign a designated administrator for the purpose of monitoring this agreement;

c) ChildNet's designee for the purpose of executing and administering this Agreement shall be the CEO, who may assign a designated administrator for the purpose of monitoring this agreement;

d) CSBD's designee for the purpose of executing and administering this Agreement shall be the President/CEO, who may assign a designated administrator for the purpose of monitoring this agreement;

e) APD's designee for the purpose of executing and administering this Agreement shall be the Area Administrator, Area 10, who may assign a designated administrator for the purpose of monitoring this agreement;

f) DJJ's designee for the purpose of executing and administering this Agreement shall be the Chief Probation Officer, Circuit 17, who may assign a designated administrator for the purpose of monitoring this agreement.

g) BBHC's designee for the purpose of executing and administering this Agreement shall be the CEO, who may assign a designated administrator for the purpose of monitoring this agreement.

2.29 Interagency Dispute. Each party agrees to comply with the following steps in the case of an interagency dispute, which shall be the sole mechanism to resolving disputes arising from the interpretation or implementation of this agreement:

a) Step 1 is resolution of the dispute among the Liaisons and staff at the local agency level; and if unsuccessful then,

b) Step 2 is resolution of the dispute among the agency principals or their designees, i.e., the Superintendent of Schools and the Community Development Administrator, DCF, Circuit 17, the CEO,

ChildNet, the President/CEO, CSBD, the Area Administrator, BBHC's CEO, APD/Area 10 and the Chief Probation Officer, Circuit 17 or their designees. Notwithstanding the foregoing, this dispute resolution shall not apply to any dispute between ChildNet and DCF if said dispute or issue is addressed in the contract between DCF and ChildNet.

2.30 **Evaluation.** Each party agrees to participate, as appropriate, in evaluations conducted by the agencies, both locally and at the state level, or a neutral third party as agreed upon by the Parties to determine the effectiveness of the Agreement and to make recommendations for future enhancements that may benefit the children known to the department.

2.31 **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:

2.32 **Counterparts and Multiple Originals.** This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

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

With a Copy to: Chief Academic Officer
The School Board of Broward County, Florida
600 Southeast Third Avenue, Tenth Floor
Fort Lauderdale, Florida 33301

To DCF: Community Development Administrator, Circuit 17
Department of Children and Families
1400 West Commercial Blvd., #210-G
Fort Lauderdale, Florida 33309

With a Copy to: Regional Legal Counsel, Southeast Region
Department of Children and Families 1400
West Commercial Blvd., #210-C Fort
Lauderdale, Florida 33309

To ChildNet: President/CEO
ChildNet, Inc.
1100 West McNab Rd
Ft. Lauderdale, FL 3330

With a Copy to:

CareerSource Broward
Director of Service Coordination ChildNet, Inc.
100 West McNab Rd
Ft. Lauderdale, FL 33309

President/CEO
CareerSource Broward
6301 NW 5th Way, Suite 3000
Fort Lauderdale, Florida 33309 and

General Counsel
CareerSource Broward
6301 NW 5th Way, Suite 3000
Fort Lauderdale, Florida 33309

Area Administrator, Area 10
Agency for Persons with Disabilities
201 West Broward Blvd., Suite 305
Fort Lauderdale, Florida 33301

Chief Probation Officer, Circuit 17
Department of Juvenile Justice 2928A
North State Road 7
Lauderdale Lakes, FL 33313

CEO
Broward Behavioral Health Coalition,
1715 SE 4th Avenue,
Fort Lauderdale, FL 33316

2.33 **Background Screening.** DCF, ChildNet, CSBD, APD, BBHC and DJJ agree to comply with all the 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 students are present, (2) will have direct contact with the 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 SBBC in advance of DCF, ChildNet, CSBD, BBHC, APD and DJJ or its personnel, providing any services under the conditions described in the previous sentence. DCF, ChildNet and CSBD, APD, BBHC, and DJJ 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 DCF, ChildNet and CSBD, APD, BBHC, and DJJ and its personnel. The Parties agree that failure of DCF, ChildNet, CSBD, APD, BBHC, or DJJ to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement.

2.34 **Indemnification.** This section shall survive 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 SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its agent's acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence;

B. By DCF: DCF agrees to be fully responsible for its acts of negligence, or its agent's acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence;

C. By ChildNet: ChildNet agrees to be fully responsible for its acts of negligence, subject to the provisions of Florida Statute 409.993, when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence;

D. By CSBD: CSBD agrees to be fully responsible for its acts of negligence, or its agent's acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

E. By APD: APD agrees to be fully responsible for its acts of negligence, or its agent's acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

F. By DJJ: DJJ agrees to be fully responsible for its acts of negligence, or its agent's acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

G. By BBHC: BBHC agrees to be fully responsible for its acts of negligence, or its agent's acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

2.35 **Required Insurance Coverages.** 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 the legislature.

2.36 **Conflicts.** Should this Agreement conflict with any agreements between the parties, such as ChildNet and DCF, the agreement between the parties will control.

ARTICLE 3 - GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing contained herein in this Agreement is intended to serve as a waiver of sovereign immunity by any agency to which sovereign immunity may be applicable or of any rights of 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 manner 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 parties have a right to the retirement, leave benefits or any other benefits of the employees of the other parties as a result of the performance of any duties or responsibilities under this Agreement. Each party shall not be responsible for social security, withholding taxes, and contributions to unemployment compensation funds or insurance for the other parties or the other parties' 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, marital status, national origin, religion, or sex in the performance of the parties' respective duties, responsibilities and obligations under this Agreement. SBBC, ChildNet, and CSBD agree that no person shall be subjected to discrimination because of gender identity, gender expression, or sexual orientation in the performance of their duties, responsibilities and obligations under this Agreement.

3.05 **Termination.** This Agreement may be canceled by any of the Parties with or without cause during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement.

3.06 **Default.** The parties agree that, if 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 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. Each agency is subject to annual appropriations made by the Florida Legislature.

3.09 **Public 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. Each party shall comply with confidentiality requirements pursuant to Federal and State law including but not limited to Chapter 39 regarding child abuse records and applicable sections of the Health Insurance Portability and Accountability Act (HIPAA).

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 **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.

3.12 **Governing Laws and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida and federal law. 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 Circuit of Broward County, Florida, or such other coverage limits that may be set forth by statute, code or departmental regulation.

3.13 **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.

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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:

Office of the General Counsel

FOR THE DEPARTMENT OF CHILDREN AND FAMILIES, CIRCUIT 17

Signature

Print Name and Title

Witness

Witness

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by _____ who is personally known to me or who produced _____ as identification and who did / did not first take an oath this _____ day of _____, 20____.

My Commission Expires:

Signature – Notary Public

Notary's Printed Name

Notary's Commission No.

FOR CHILDNET

Signature

Print Name and Title

Witness

Witness

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by _____ who is personally known to me or who produced _____ as identification and who did / did not first take an oath this _____ day of _____, 20_____.

My Commission Expires:

Signature – Notary Public

Notary's Printed Name

Notary's Commission No.

FOR CAREERSOURCE

Signature

Print Name and Title

Witness

Witness

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by _____ who is personally known to me or who produced _____ as identification and who did / did not first take an oath this _____ day of _____, 20____.

My Commission Expires:

Signature – Notary Public

Notary's Printed Name

Notary's Commission No.

FOR THE AGENCY FOR PERSONS WITH DISABILITIES, AREA 10

Signature

Print Name and Title

Witness

Witness

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by _____ who is personally known to me or who produced _____ as identification and who did / did not first take an oath this _____ day of _____, 20____.

My Commission Expires:

Signature – Notary Public

Notary's Printed Name

Notary's Commission No.

FOR THE FLORIDA DEPARTMENT OF JUVENILE JUSTICE, CIRCUIT 17

Signature

Print Name and Title

Witness

Witness

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by _____ who is personally known to me or who produced _____ as identification and who did / did not first take an oath this _____ day of _____, 20____.

My Commission Expires:

Signature – Notary Public

Notary's Printed Name

Notary's Commission No.

FOR BROWARD BEHAVIORAL HEALTH COALITION

Signature

Print Name and Title

Witness

Witness

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by _____ who is personally known to me or who produced _____ as identification and who did / did not first take an oath this _____ day of _____, 20_____.

My Commission Expires:

Signature – Notary Public

Notary's Printed Name

Notary's Commission No.

Attachment A

Safeguarding the Confidentiality of Student Records and Information

The parties acknowledge that Sections 1002.022, 1002.221 and 1002.222, Fla. Stat. and the Family Educational Rights and Privacy Act (FERPA, 20 U.S.C. § 1232g) and its implementing regulations (34 C.F.R. Part 99), protect the privacy rights of students and their parents with respect to information and records created and/or maintained by public schools. The student personally identifiable information (PII) may be disclosed only in compliance with FERPA. Pursuant to FERPA, the information provided by SBBC shall be limited to that which is necessary to effectively serve the student.

Each party participating in this Agreement further agrees to:

- (1) Hold the student records and information in strict confidence and not use or disclose except as required by this Agreement or as required or permitted by law unless the parent of a student provides prior written consent for their release. All shared student records will be disclosed only to those who have a need to access the information in order to perform their assigned duties in the performance of this Agreement. Absent consent from the parent or eligible student, student records and information will not be disclosed except as allowed by the aforementioned laws.
- (2) Safeguard the student records through administrative, physical and technological safety standards to ensure adequate controls are in place to protect the student information in accordance with FERPA's privacy requirements.
- (3) Continually monitor its operations and take all actions necessary to assure that the student information and records are safeguarded in accordance with the terms of this Agreement, and
- (4) Any employees, appointees or agents of each party to this Agreement who are granted access to shared student records and have questions pertaining to FERPA may view a FERPA training webinar, as it may become available, at the U.S. Department of Education, Privacy Technical Assistance Center website: <http://ptac.ed.gov>.

Each party to this Agreement agrees to notify the other party immediately upon discovery of a breach of confidentiality of student information and to take all necessary notification steps as may be required by federal and Florida law. A breach of the confidentiality requirements shall constitute grounds for immediate termination of this Agreement without advance notice. Any provisions within this Agreement concerning the resolution of disputes shall not be applicable to a breach of the requirements stated herein above.

This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such student records are returned to The School Board of Broward County, Florida ("SBBC") or disposed of in compliance with the applicable Florida Retention Schedules and a written acknowledgment of said disposition is provided to SBBC.

ATTACHMENT B

HIPAA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("**Agreement**") is made and entered into as of this _____ day of _____, 20____ (the "**Effective Date**"), by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "**SBBC**" or "**Covered Entity**"),
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 FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES, CIRCUIT 17
(hereinafter referred to as "Business Associate"), whose principal place
of business is 1400 West Commercial Boulevard., #210-C, Fort Lauderdale, Florida 33307; and

CHILDNET, INC
(hereinafter referred to as "Business Associate"), whose principal place
of business is 1100 West McNab Road, Fort Lauderdale, FL 33309; and

CAREERSOURCE BROWARD
(hereinafter referred to as "Business Associate"), whose principal place of
business is 6301 Northwest 5th Way, Suite 3000, Fort Lauderdale, FL 33309; and

AGENCY FOR PERSONS WITH DISABILITIES, AREA 10
(hereinafter referred to as "Business Associate"), whose principal place of business is
201 West Broward Boulevard, Suite 305, Fort Lauderdale, FL 33301; and

THE FLORIDA DEPARTMENT OF JUVENILE JUSTICE, CIRCUIT 17
(hereinafter referred to as "Business Associate") whose principal place of business is
2928A North State Road 7, Lauderdale Lakes, FL 33313; and

BROWARD BEHAVIORAL HEALTH COALITION
(hereinafter referred to as "Business Associate") whose principal place of business is
1715 SE 4th Avenue, Fort Lauderdale, FL 33316.

WHEREAS, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a "business associate," as that term is defined at 45 C.F.R. §160.103; and

WHEREAS, SBBC and Business Associate may share Protected Health Information ("PHI") (as defined below) in the course of their relationship; and

WHEREAS, SBBC and Business Associate understand that, with respect to coverages subject to

regulation under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), they are subject to the requirements governing business associates, including but not limited to the Privacy Rule and the Security Rule (both defined below) of HIPAA, the Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH”), the Omnibus Rule of 2013, and applicable Florida law, any of which may be amended from time to time or supplemented by new legislation or guidance (hereinafter collectively referred to as “Business Associate Requirements”); and

WHEREAS, SBBC and Business Associate intend to fully comply with current and future Business Associate requirements and mutually desire to outline their individual responsibilities with respect to Protected Health Information (“**PHI**”) as mandated by the “Privacy Rule”, the “Security Rule”, and the HITECH Act; and

WHEREAS, SBBC and Business Associate understand and agree that the Business Associate requirements require SBBC and Business Associate to enter into a Business Associate Agreement which shall govern the use and/or disclosure of PHI and the security of ePHI.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE 1 – RECITALS

1. Definitions. When used in this Agreement and capitalized, the following terms have the following meanings:

- (a) “**Breach**” has the same meaning as that term is defined in §13400 of the HITECH Act and shall include the unauthorized acquisition, access, use, or disclosure of PHI that compromises the security or privacy of such information.
- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designated Record Set**” has the same meaning as the term “designated record set” in 45 CFR §164.501, which includes enrollment, payment, billing, claims adjudication and case or medical management record systems maintained by or for a health plan, or other information used in whole or part by or for the Plan to make decisions about individuals.
- (d) “**EDI Rule**” shall mean the Standards for Electronic Transactions as set forth at 45 CFR Parts 160, Subpart A and 162, Subpart A and I through R.
- (e) “**HIPAA**” means the Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**Individual**” shall have the same meaning as the term “Individual” in 45 C.F.R. §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. §164.502(g).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.

- (i) **“Omnibus Rule”** means the HIPAA Omnibus Rule of 2013.
- (j) **"Privacy Rule"** shall mean the Standards for Privacy of Individually Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) **"Protected Health Information"** or **"PHI"** shall have the same meaning as the term "protected health information" in 45 C.F.R. §160.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) **"Required by Law"** shall have the same meaning as the term "required by law" in 45 C.F.R. §164.103.
- (m) **"Secretary"** shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) **“Security Rule”** shall mean the Standards for Security of ePHI as set forth at 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) **“Unsecured PHI”** shall mean PHI that is not secured through the use of a technology or methodology specified by the Secretary in guidance or as otherwise defined in §13402(h) of the HITECH Act.

Terms used but not defined in this Agreement shall have the same meaning as those terms in 45 C.F.R. §§ 164.103 and 164.501 and the HITECH Act.

ARTICLE 2 – SPECIAL CONDITIONS

2. Obligations and Activities of Business Associate Regarding PHI.

- (a) Business Associate agrees to not use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law.
- (b) Business Associate agrees to comply with the “Minimum Necessary” rule when using, disclosing, or requesting PHI, except when a specific exception applies under HIPAA or the HITECH Act.
- (c) Business Associate agrees to use appropriate safeguards and comply, where applicable, with the HIPAA Security Rule to prevent use or disclosure of the PHI other than as provided for by this Agreement.
- (d) Business Associate agrees to report to SBBC, as soon as reasonably practicable, any impermissible use or disclosure of PHI it becomes aware of, and any use or disclosure of PHI not provided for by this Agreement. Any report of breach should be in substantially the same form as Exhibit A hereto.
- (e) Business associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known of such Breach.

- (f) For the Breach of Unsecured PHI in its possession:
1. Business Associate will perform a Risk Assessment to determine if there is a low probability that the PHI has been compromised. Business Associate will provide SBBC with documentation showing the results of the Risk Assessment. The Risk Assessment will consider at minimum the following factors :
 - a. The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
 - b. The unauthorized person who used the PHI or to whom the disclosure was made;
 - c. Whether the PHI was actually acquired or viewed; and
 - d. The extent to which the risk to the PHI has been mitigated.
 2. Business Associate will prepare and distribute, at its own cost, any and all required notifications under Federal and Florida law, or reimburse SBBC any direct costs incurred by SBBC for doing so.
 3. Business Associate shall be responsible for all fines or penalties incurred for failure to meet Breach notice requirements pursuant to by Federal and/or Florida law.
- (g) Business Associate agrees to ensure that, and obtain assurance from, any and all agents, including sub-contractors (excluding entities that are merely conduits), to whom it provides PHI agree to the same restrictions and conditions that apply to Business Associate with respect to such information. All agents and subcontractors engaged by the Business Associate that create, maintain, receive or transmit PHI must comply with the HIPAA Rules, including the rules to extend the requirements to the agent's or subcontractor's subcontractors.
- (h) Business Associate agrees to provide access, at the request of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. § 164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of SBBC or an Individual in the time and manner designated by SBBC. Business Associate agrees to make internal practices, policies, books and records relating to the use and disclosure of PHI available to SBBC, or at a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for purposes of the Secretary determining SBBC's compliance with the Privacy Rule. Business Associate shall immediately notify SBBC upon receipt or notice of any and all requests by the Secretary to conduct an investigation with respect to PHI received from SBBC.
- (j) Business Associate agrees to document any and all disclosures of PHI and information related to such disclosures that are not excepted under 45 C.F.R. § 164.528(a)(1) as

would be reasonably required for SBBC to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

- (k) Business Associate agrees to provide to SBBC or an Individual, in a time and manner designated by SBBC, information collected in accordance with paragraph (j) above, to permit SBBC to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
- (l) Business Associate agrees to use or disclose PHI pursuant to the request of SBBC; provided, however, that SBBC shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by SBBC.
- (m) Business Associate agrees to mitigate, to the extent practicable, any and all harmful effects that are known to Business Associate of a use or disclosure of PHI, or a Breach of Unsecured PHI, by Business Associate in violation of the requirements of this Agreement, the Privacy Rule, the Security Rule, the HITECH Act or HIPAA generally.
- (n) Business Associate shall provide SBBC with a copy of any notice of privacy practices it produces in accordance with 45 C.F.R. § 164.520, as well as any and all changes to such notice.
- (o) Business Associate, if performing a function that applies to Covered Entity, agrees to comply with the requirements that apply to the Covered Entity.

3. Permitted Uses and Disclosures of PHI by “Business Associate”.

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the “Service Agreement”) provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate.
- (c) Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate if: (i) such disclosure is Required by Law, or (ii) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that such information will remain confidential and used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person agrees to notify Business Associate of any and all instances of which it is aware that the confidentiality of the information has been breached.
- (d) Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation services to SBBC as permitted by 42 C.F.R. § 164.504(e)(2)(i)(B).

4. Obligations of SBBC Regarding PHI.

- (a) SBBC shall provide Business Associate with the notice of privacy practices that SBBC produces in accordance with 45 C.F.R. § 164.520, as well as any changes to such notice.
- (b) SBBC shall provide Business Associate with any and all changes in, or revocation of, authorization by an Individual to use or disclose PHI, if such changes affect Business Associate permitted or required uses and disclosures.
- (c) SBBC shall notify Business Associate of any and all restrictions to the use or disclosure of PHI that SBBC has agreed to in accordance with 45 C.F.R. § 164.522.
- (d) SBBC and its representatives shall be entitled with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate compliance with the terms of this Agreement. SBBC shall conduct its review during the normal business hours of Business Associate, as the case may be, and to the extent feasible without unreasonably interfering with Business Associate normal operations.

5. Security of Electronic Protected Health Information.

- (a) Business Associate has implemented policies and procedures to ensure that its receipt, maintenance, or transmission of “electronic protected health information” (as defined in 45 C.F.R. §160.103) (“ePHI”) on behalf of SBBC complies with the applicable administrative, physical, and technical safeguards required for protecting the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.
- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 45 C.F.R. Part 164.304 and in accordance with applicable Florida law) of which it becomes aware. Business Associate agrees to report the Security Incident to SBBC as soon as reasonably practicable, but not later than 10 business days from the date the Business Associate becomes aware of the incident.
- (d) SBBC agrees and understands that SBBC is independently responsible for the security of ePHI in its possession or for ePHI that it receives from outside sources including “Business Associate”.

6. Compliance with EDI Rule .

Business Associate agrees that, on behalf of SBBC, it will perform all transactions for which a

standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

Business Associate agrees that it will comply with all applicable EDI standards. Business Associate further agrees that it will use its best efforts to comply with all applicable regulatory provisions in addition to the EDI Rule and the Privacy Rule that are promulgated pursuant to the Administrative Simplification Subtitle of HIPAA.

7. Subsequent Legislative or Regulatory Changes.

Any and all amendments to the laws or regulations affecting the Privacy Rule, Security Rule, the HITECH Act, Omnibus Rule, or HIPAA in general shall be deemed to amend this Agreement to incorporate said changes without further action.

8. Amendment.

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act and HIPAA in general. The parties may agree to amend this Agreement from time to time in any other respect that they deem appropriate. This Agreement shall not be amended except by written instrument executed by the parties.

9. Term and Termination.

- (a) ***Term.*** This Agreement shall be effective as of the Effective Date and shall remain in effect until such time as SBBC exercises its rights of termination under section 9(b) or 9(c) and until the requirements of Section 9(d) below are satisfied. The rights and obligations of Business Associate under Section 9(d) shall survive termination of this Agreement.
- (b) ***Termination for Convenience.*** This Agreement may be terminated without cause and for convenience by SBBC during the term thereof upon thirty (30) days written notice to Business Associate.
- (c) ***Termination for Cause by SBBC.*** Upon SBBC's knowledge of a material breach by Business Associate, SBBC shall provide an opportunity for Business Associate to cure the breach. If Business Associate does not cure the breach within thirty (30) days from the date that SBBC provides notice of such breach to Business Associate, SBBC shall have the right to terminate this Agreement, the Service Agreement, or both, by providing thirty (30) days advance written notice of such termination to Business Associate.

SBBC may terminate this Agreement without penalty or recourse to SBBC if SBBC determines that Business Associate has violated a material term of this Agreement.

Upon Business Associate knowledge of a material breach by SBBC, for example, if SBBC makes illegal demands on Business Associate, Business Associate shall provide an opportunity for SBBC to cure the breach. If SBBC does not cure the breach within thirty (30) days of the date that Business Associate provides notice of such breach to SBBC, Business Associate shall have the right to terminate this Agreement, the

Service Agreement, or both, by providing thirty (30) days advance written notice of such termination to Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, Business Associate shall return or destroy all PHI received from SBBC, or created or received by Business Associate on behalf of SBBC. Business Associate shall not retain any copies of the PHI. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If the return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

10. Indemnification.

- (a) **By SBBC:** SBBC agrees to be fully responsible for its acts of negligence or its agent's acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.
- (b) **By Business Associate:** Business Associate agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery cost, court costs and all other sums which SBBC, its agents, servants and employees must pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods, or services furnished by Business Associate, its agents, servants or employees; the equipment of Business Associate, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate agents when acting within the scope of their employment or agency, whether such claims, judgments, costs and expenses be for damages, damage to property including Business Associate property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

ARTICLE 3 – GENERAL CONDITIONS

11. No Waiver of Sovereign Immunity.

Nothing contained 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 as a waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

12. 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. 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.

13. 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 age, color, disability, gender identity, gender expression, national origin, marital status, race, religion, sex or sexual orientation.

14. 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 for non-compliance with that law.

15. 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.

16. 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.

17. 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.

18. Binding Effect.

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

19. 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 SBBC.

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.

21. 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.

22. Notices.

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:

23. Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

To SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 Southeast 3rd Avenue
Fort Lauderdale, FL 33301

With a Copy to: _____
(Insert Name of Relevant Administrator)

(Insert Name of Relevant Department)

(Address)

(Address)

Privacy Officer
Risk Management Department
The School Board of Broward County, Florida
600 S.E. 3rd Avenue, 11th Floor
Ft. Lauderdale, FL 33301

To Business Associate: _____
(Name of Other Party)

(Address)

(Address)

With a Copy to: _____
(Name to be Provided by Other Party)

(Address)

(Address)

23. 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 affect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

24. Captions.

The captions, section 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.

25. 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. The person signing on behalf of "Business Associate" has authority to bind "Business Associate" with respect to all provisions contained in this Agreement.

26. No Waiver of Rights, Powers and Remedies.

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure there from granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

27. Regulatory References.

A reference in this Agreement to a section in the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA in general means the referenced section or its successor, and for which compliance is required.

28. 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 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.

29. Entire Agreement.

This Agreement 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 Agreement. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

30. Interpretation.

Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPAA in general and any subsequent legislation or regulations otherwise affecting Business Associates.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date.

FOR SBBC (COVERED ENTITY)

(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:

Office of the General Counsel

FOR THE DEPARTMENT OF CHILDREN AND FAMILIES, CIRCUIT 17 (BUSINESS ASSOCIATE)

Signature

Print Name and Title

Witness

Witness

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by _____ who is personally known to me or who produced _____ as identification and who did / did not first take an oath this _____ day of _____, 20____.

My Commission Expires:

Signature – Notary Public

Notary’s Printed Name

Notary’s Commission No.

FOR CHILDNET (BUSINESS ASSOCIATE)

Signature

Print Name and Title

Witness

Witness

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by _____ who is personally known to me or who produced _____ as identification and who did / did not first take an oath this _____ day of _____, 20_____.

My Commission Expires:

Signature – Notary Public

Notary's Printed Name

Notary's Commission No.

FOR CAREERSOURCE (BUSINESS ASSOCIATE)

Signature

Print Name and Title

Witness

Witness

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by _____ who is personally known to me or who produced _____ as identification and who did / did not first take an oath this _____ day of _____, 20____.

My Commission Expires:

Signature – Notary Public

Notary's Printed Name

Notary's Commission No.

FOR THE AGENCY FOR PERSONS WITH DISABILITIES, AREA 10 (BUSINESS ASSOCIATE)

Signature

Print Name and Title

Witness

Witness

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by _____ who is personally known to me or who produced _____ as identification and who did / did not first take an oath this _____ day of _____, 20____.

My Commission Expires:

Signature – Notary Public

Notary's Printed Name

Notary's Commission No.

FOR THE FLORIDA DEPARTMENT OF JUVENILE JUSTICE, CIRCUIT 17 (BUSINESS ASSOCIATE)

Signature

Print Name and Title

Witness

Witness

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by _____ who is personally known to me or who produced _____ as identification and who did / did not first take an oath this _____ day of _____, 20____.

My Commission Expires:

Signature – Notary Public

Notary’s Printed Name

Notary’s Commission No.

FOR BROWARD BEHAVIORAL HEALTH COALITION (BUSINESS ASSOCIATE)

Signature

Print Name and Title

Witness

Witness

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by _____ who is personally known to me or who produced _____ as identification and who did / did not first take an oath this _____ day of _____, 20_____.

My Commission Expires:

Signature – Notary Public

Notary's Printed Name

Notary's Commission No.

EXHIBIT A

NOTIFICATION TO THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ABOUT A BREACH OF UNSECURED PROTECTED HEALTH INFORMATION

This notification is made pursuant to Section 2(d) of the Business Associate Agreement between THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA (“SBBC”) and

_____ (Business Associate).

Business Associate hereby notifies SBBC that there has been a breach of unsecured (unencrypted) protected health information (PHI) that Business Associate has used or has had access to under the terms of the Business Associate Agreement.

Description of the breach:

Date or date range of the breach: _____

Date of the discovery of the breach: _____

Number of individuals affected by the breach: _____

The types of unsecured PHI that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code):

Description of what Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches:

Recommended steps the individuals whose information was breached should take to protect themselves from potential harm resulting from the breach:

Contact information to ask questions or learn additional information:

Name: _____

Title: _____

Address: _____

Email Address: _____

Phone Number: _____