

**HAMILTON COUNTY DEPARTMENT OF EDUCATION**

3074 Hickory Valley Road  
Chattanooga, Tennessee 37421

MEMORANDUM

TO: Hamilton County Board of Education  
Dr. Bryan Johnson, Superintendent

FROM: Keith Fogleman, Chief Talent Officer

DATE: October 18, 2018

SUBJECT: Teach For America Professional Services Agreement

I am requesting approval for a professional services agreement with Teach For America for \$250,000. The agreement will be funded from Priority School grants and will not impact the General Fund budget. The term of this Agreement will begin upon Board approval and will expire on June 30, 2023.

Teach For America is a national leader in recruiting, selecting, training and providing ongoing professional development to individuals committed to serving as classroom teachers to enhance student achievement. They have also committed to assist in the recruiting of Teach For America alumni to live and teach in Hamilton County. Teach For America will serve as an alternative staffing source for teachers and will provide 15 teachers per year for the Priority Schools through the term of the agreement.

Thank you in advance for your consideration of this request. Please do not hesitate to contact me if you have any questions.

## **DISTRICT EDUCATIONAL PROFESSIONAL SERVICES AGREEMENT**

This educational professional services agreement (this “Agreement”) is dated October 20, 2018 and is entered into between TEACH FOR AMERICA, INC. (“Teach For America”), a Connecticut non-profit and Hamilton County Department of Education , a political subdivision of the state of Tennessee (“School District”) (each individually “a Party” and collectively “the Parties”).

### **RECITALS**

WHEREAS, Teach For America is a national leader in recruiting, selecting, training and providing ongoing professional development to individuals committed to closing the achievement gap by serving as effective classroom teachers specifically equipped to enhance student achievement in under-resourced school systems.

WHEREAS, Hamilton County Department of Education seeks to recruit new teachers who are trained to lead students to academic achievement and to equip such teachers with ongoing professional development and support to further develop and sustain their professional practice.

NOW THEREFORE, School District and Teach For America agree to be bound by the terms and conditions of this Agreement.

### **AGREEMENT**

#### **I. TEACHER CANDIDATE RECRUITMENT, SELECTION AND HIRING:**

School District Responsibilities:

##### **A. Hiring Commitment.**

- i. Teach For America will use its reasonable efforts to provide the number of teacher candidates for employment with School District (“Teachers”) set forth in Exhibit A (the “Agreed Number”), attached and hereby incorporated hereto. Teach For America cannot guarantee its ability to provide the full Agreed Number of Teachers to School District and the failure of Teach For America to

provide the full Agreed Number of Teachers for any academic year shall not constitute a breach of this Agreement.

- ii. Whether or not Teach For America is able to provide the full Agreed Number, School District shall consider for hire each Teacher provided by Teach For America who meets the district eligibility requirements.
- iii. Any Teach For America Teacher hired by the School District shall be hired as the classroom teacher of record and not for substitute, auxiliary, resource or teacher's aide positions.
- iv. Teach For America Teachers will be hired by School District for vacancies across the full range of grades and subject matters and not restricted or limited to so-called "critical" or "shortage" subjects or grade level vacancies.
- v. School District and Teach For America shall collaborate in good faith to identify individual schools within School District appropriate for Teachers. In order to be considered an appropriate school (a "Partner School") for placement of a Teacher, the school's student population must be considered high poverty relative to the student population elsewhere in the district or that fifty percent or more of the school's student population receives free or reduced lunch. To the extent reasonably practicable, School District will employ three or more Teachers per individual Partner School.

B. Hiring Process.

- i. School District and Teach For America will collaborate in good faith to facilitate the efficient hiring of individual Teachers, in accordance with the School District's established District hiring practices.
- ii. School District shall use its reasonable efforts to hire Teachers in a timely manner throughout the spring and summer of the applicable academic school year, and School District shall employ Teachers before the first day of the academic school year. School District agrees that where possible, Teach For America shall be informed of individual Teacher's grade and subject level assignments prior to the start of their Pre-Service Training (as described below).

- iii. Subject to its obligations under pre-existing collective bargaining agreements, contracts, or applicable law, School District will offer alternative employment to any Teacher who is not employed by the first day of the academic school year. “Alternative employment” includes, but is not limited to substitute teaching positions, “pool” teaching positions, classroom aides or other temporary category of employment available within School to individuals with teaching credentials. The purpose of an alternative employment placement is to enable the individual Teacher to obtain a salary until such time as School District can secure permanent employment as a full-time classroom teacher of record.

## II. TEACHER CANDIDATE RECRUITMENT, SELECTION AND HIRING:

Teach For America Responsibilities:

- A. Candidate Recruitment and Selection. Teach For America will recruit, select for participation in the Teach For America program, and present to the School District for employment Teachers from a broad range of academic majors and career fields. Teach For America will use reasonable efforts to recruit Teachers from diverse backgrounds. In connection with the foregoing, Teach For America will not knowingly engage in any unlawful acts of discrimination in its recruiting or selection of candidates.
- B. Pre-Service Training. Prior to entering the classroom, all Teachers will undergo pre-service training at Teach For America Institutes, which are designed and delivered by Teach For America in order to prepare Teachers for this work.
- C. Highly Qualified Status. Teach For America will provide the described pre-service training to Teachers presented to School District for the purpose of ensuring that such Teachers meet the “highly qualified” teacher requirements set forth in the federal Every Student Succeeds Act and applicable state regulations (together, the “Requirements”). For purposes of this Section E, only those Requirements in effect at the time that the Teacher is offered employment by School District will be applicable.

III. TEACHER PLACEMENT AND PROFESSIONAL DEVELOPMENT COMMITMENTS:  
School District Responsibilities

A. Employment Status.

- i. Every Teacher employed by School District as described in this Agreement shall be a full-time employee of School District with all of the rights, responsibilities and legal protections attendant to that status and not an employee of Teach For America. For the avoidance of doubt, in the event School District is an “at-will” employer nothing in this Agreement shall be construed to grant additional employment rights to individual Teachers.
- ii. Nothing in this Agreement shall be construed to permit Teach For America to interfere in the employment relationship between School District and an employed Teacher.
- iii. Nothing in this Agreement shall be construed to permit Teach For America to function as the representative of any Teacher absent the express agreement among the parties and the Teacher that Teach For America may operate in such capacity in a particular circumstance.
- iv. Nothing in this Agreement shall be construed to imply that an employer-employee relationship exists between Teach For America and any individual Teacher.
- v. Nothing in this Agreement shall be construed to make Teach For America a party to any employment agreement between the School District and the Teacher.
- vi. Nothing in this Agreement shall be construed to imply that any Teacher employed by the School District as described in this Agreement is an agent of Teach For America or has any right or authority to create or assume any obligation of any kind, express or implied, on behalf of Teach For America or bind Teach For America in any respect whatsoever.
- vii. Subject to its obligations under pre-existing labor agreements, applicable municipal and state laws and regulations, and/or its policies and procedures,

School District acknowledges that there is an expectation that Teacher(s) shall be employed for two years, provided that the Teacher remains an employee in good standing.

- viii. Notwithstanding the foregoing, School District may continue to employ individual Teacher(s) beyond the two-year commitment by mutual agreement between School District and such Teacher(s).

B. Compensation of Teachers. School District shall provide to every Teacher employed by School District pursuant to this Agreement the same salary and benefits (including, as applicable, health, dental, vision and retirement) as are provided to other teachers employed by School District who are similarly situated from the standpoint of certification status, seniority and any other factors routinely used by School District in making such decisions. Notwithstanding the above, Teach For America acknowledges it exercises no control of the salary and benefits offered to Teachers per this Agreement.

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

#### IV. TEACHER PLACEMENT AND PROFESSIONAL DEVELOPMENT COMMITMENTS: Teach For America Responsibilities

A. Professional Development and On-Line Data Storage Services.

- i. During the course of the academic year, Teach For America shall provide on behalf of School District various professional development services and activities for participating Teachers as well as related on-line data storage to facilitate such professional development services (the “Professional Development and Data Storage Services”). These services may include periodic classroom observations by regional program staff, videotaping of instruction with review of instructional technique, co-investigative discussions to facilitate Teacher capacity for self-reflection and evaluation of instructional practice using student achievement data, and content area/grade-level workshops facilitated by veteran teachers. In addition, Teach For America shall facilitate Teacher access to an assortment of resources including sample lesson plans, assessments, grade tracking systems, and content area/grade level instructional materials. These professional development services will be available to all Teachers during their first two years in the classroom. To facilitate provision of these professional development services, Teach For America may provide on-line data storage services, including transfer and storage of identifiable student information on Teach For America’s proprietary software and servers.
- ii. To facilitate provision of the Professional Development and Data Storage Services, School District may disclose to Teach For America student-related records and personally identifiable information contained in such records (collectively, “Student Records”). Pursuant to its obligations under the Family Educational Rights and Privacy Act, 20 USC §1232g, and its implementing regulations, 34 CFR pt. 99, as each may be amended from time to time (“FERPA”), School District hereby acknowledges that, in the course of providing the Professional Development and Data Storage Services, Teach For America is a school official with legitimate educational interests in the Student Records disclosed to Teach For America, pursuant to 34 CFR §99.31(a)(1).
- iii. Teach For America agrees to use, maintain, and redisclose Student Records only in accordance with the requirements of FERPA. Without limiting the foregoing, Teach For America agrees that it shall not maintain, use, disclose, or allow access to Student Records except as permitted by this Agreement or as

otherwise authorized by the School District or by law, and will use Student Records disclosed by the School District only for the purposes for which such disclosure was made.

- iv. School District acknowledges that Teach For America may re-disclose Student Records to third parties pursuant to Teach For America's provision of the Professional Development and Data Storage Services, as provided in 34 C.F.R. § 99.33(b), provided that Teach For America shall, in advance, provide to School District the names of such parties and a brief description of such parties' legitimate educational interest in receiving such information.
- v. Pursuant to 34 CFR § 99.7(a)(3)(iii), School District shall include, in its annual notification of rights under FERPA, criteria that qualify Teach For America, in its capacity as a provider of professional development and data storage services, as a school official with a legitimate educational interest.

#### B. Credentialing Services.

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

### V. GENERAL PROVISIONS

#### A. Fees-for-Service.

- i. School District shall pay Teach For America an annual fee of \$250,000.00 (Two Hundred and Fifty Thousand Dollars) to defray expenses Teach For America incurred in recruiting, selecting, providing pre-service training and continuing



professional development services to the Teachers employed by School District under this agreement. School District agrees that all payments for fees shall be in the form of check delivered to Teach For America or wire transfer to an account designated by Teach For America in writing.

B. Non-refund. Teach For America shall have no obligation to refund to School District any amount paid by School District in respect of any Teacher for any reason whatsoever. For the avoidance of doubt, School District will be invoiced fees for each of the individual Teacher(s) initially employed by the School District.

C. Invoicing and Payment. Teach For America will invoice School District for all amounts due hereunder by the February before the start of the next academic school year, provided that Teach For America's failure to timely do so, will not constitute a waiver of any of Teach For America's rights hereunder or constitute a breach by Teach For America of this Agreement. For the avoidance of doubt, School District shall pay all invoices within 30 days of the date of the invoice.

Term. The term of this Agreement will begin on the date first and will expire on June 30, 2023.

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

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

E. Effect of Termination. Except as otherwise specifically provided, if this Agreement expires or is terminated by either party, it shall become void and of no effect without

liability of any party (or any of its directors, officers, employees, agents, representatives or advisors) to the other parties; provided that no such expiration or termination shall relieve any party of any liability incurred by such party under this Agreement prior to such termination. In the event that this Agreement expires or is terminated by either party, Sections IIIB. and IIIC. shall survive and will remain in effect until such time as there are no Teachers in their second year of employment in School District. Sections VF., V.G., V.H., and V.I. shall survive the expiration or termination of this Agreement indefinitely. Additionally, Teach For America will be entitled to all outstanding amounts due up to the date of expiration or termination.

- F. No Warranty. School District hereby agrees and acknowledges that Teach For America does not make and has not made any representation and warranty (expressed or implied) as to the fitness of any Teacher presented or provided by Teach For America.
- G. Surveys. School District acknowledges that Teach For America may survey individual constituents, teachers, etc. at the partner school sites regarding its programming and professional development of Teachers in the classroom.
- H. Amendment/Modification. No amendment or modification of this Agreement, and no waiver hereunder, shall be valid or binding unless set forth in writing and signed by each party.
- I. Non-Assignment. Neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be assigned, in whole or in part, by operation of law or otherwise by either party without the prior written consent of the other party, and any such assignment that is not consented to shall be null and void.
- J. Counterparts. This Agreement may be executed in any number of counterparts (including by electronic transmission), each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall

constitute but one and the same instrument. The execution of this Agreement by any Party shall not become effective until counterparts have been executed by all Parties.

- K. Construction. The headings of Sections contained in this Agreement are for convenience only, and they do not, expressly or by implication, limit, define, extend, or construe the terms or provisions of the Sections of this Agreement. Any reference in this Agreement to gender includes all genders. Further, except where expressly specified to the contrary, the words “include,” “including,” and “such as” in this Agreement should be read to mean “include without limitation.”
- L. Governing Law. This Agreement and all matters relating hereto shall be governed by, construed and interpreted in accordance with the laws of the State of Tennessee, without regard to the conflict of laws provisions of such State. Any legal suit, action, or proceeding relating to this Agreement must be instituted in the federal or state courts located in [Chattanooga, Tennessee]. Each Party irrevocably submits to the exclusive jurisdiction of such courts in any suit, action or proceeding.
- M. Severability. If any term or provision of this Agreement is determined to be illegal, unenforceable or invalid in whole or in part for any reason, such illegal, unenforceable or invalid provisions or part thereof shall be stricken from this Agreement, and such provision shall not affect the legality, enforceability or validity of the remainder of this Agreement. If any provision or part thereof of this Agreement is stricken in accordance with the provisions of this Section V.P., then such stricken provision shall be replaced, to the extent possible, with a legal, enforceable and valid provision that is as similar in tenor to the stricken provision as is legally possible.
- N. Notices. Any notices to either Party under this Agreement shall be in writing and delivered by hand or sent by nationally recognized messenger service, or by registered or certified mail, return receipt requested, to the addresses set forth below or to such other address as that Party may hereafter designate by notice. Notice shall be effective

when received, which shall be no greater than one (1) business day after being sent by a nationally recognized messenger service or three days after being sent by mail.

**DISTRICT CONTACT**

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
Email: \_\_\_\_\_

**TEACH FOR AMERICA:**

**With an electronic copy to:**

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
Email: \_\_\_\_\_

Name: TFA Legal Affairs  
Email: [LegalAffairs@teachforamerica.org](mailto:LegalAffairs@teachforamerica.org)

*\*Send only notices related to breach of contract and indemnity.*

- O. Waiver. A waiver or a breach or default under this Agreement shall not be a waiver of any other subsequent breach or default. The failure or delay in enforcing compliance with any term or condition of this Agreement shall not constitute a waiver of such term or condition unless such term or condition is expressly waived in writing.
- P. Entire Agreement/Authority/Binding. This Agreement is the complete and exclusive statement of the agreement between the parties as to the subject matter hereof and supersedes all communications between the parties related to the subject matter of this Agreement.

[SIGNATURE PAGE FOLLOWS]

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

**[NAME OF SCHOOL DISTRICT]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Teach For America**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

**Teach For America**

**Contract Owner Attestation:**

X This contract required legal changes to the required terms and was reviewed/approved by TFA Legal Affairs in this final form.

This contract did not require legal changes and was not reviewed by TFA Legal Affairs.

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

**[We can adjust this language as needed. Just sample language for now.]**

<b>Certification (subject) Area</b>	<b>Grade Level</b>	<b>Agreed Number of Teachers</b>	<b>Academic Years of Employment</b>
Example: Math	Example: Elementary	<b>15</b>	-2018-19 & 2019-20
Example: Reading	Example: Secondary	15	2019-20 & 2020-2021
		15	2020-2021 & 2021-2022
		15	2021-2022 & 2022-2023
		15	2022-2023 & 2023-2024