

Amendment

to

Interagency Agreement
Between the School Board of Palm Beach County
and the Board of Commissioners of the
Health Care District of Palm Beach County

THIS AMENDMENT ("Amendment") is entered into on the ___ day of _____, 2005 and is intended to amend, modify and supplement that certain "Interagency Agreement" (the "Agreement") which commenced December 8, 2004 (the "Effective Date") between the School Board of Palm Beach County (the "School Board") and the Board of Commissioners of the Health Care District of Palm Beach County (the "Agency"). The School Board and the Agency are sometimes hereinafter referred to individually as a "Party" and collectively as the "Parties."

RECITALS:

WHEREAS, the Parties are involved in a number of interagency programs with respect to school health (physical and behavioral); and

WHEREAS, the Children's Services Council of Palm Beach County and/or Quantum Foundation, as a partner organization of the Agency, entered into an agreement with Chapin Hall Center for Children at the University of Chicago ("Chapin Hall") for the purposes of Chapin Hall's performance of an outcome evaluation of the School Behavioral Health Program (the "Outcome Evaluation");

WHEREAS, Chapin Hall has entered into a Confidentiality and Data Sharing Agreement with the Agency with respect to the use and disclosure of student information it receives from the Agency for use in connection with its performance of the Outcome Evaluation;

WHEREAS, the Parties agree that the Outcome Evaluation to be provided by Chapin Hall serves a legitimate educational interest;

WHEREAS, in recognition of the Agency's enacting legislation (Chapter 2003-326, Laws of Florida) and its responsibility in administrating and supervising (for itself and/or on behalf of the School District), research studies to be performed or provided by Chapin Hall (including the Outcome Evaluation) or to be provided by any other research organization for the purpose of serving school health programs (collectively "Research Organizations"), the Parties acknowledge that the Agency is deemed to be an "other school official" having a "legitimate educational interest" in "education records", as those terms are defined in the Agreement, FERPA, School Board Policy and Florida law; and

WHEREAS, the Parties desire to amend, supplement and clarify certain terms and conditions of the Agreement with respect to the Agency's disclosure of student information to Research Organizations in connection with school health programs.

NOW THEREFORE, in consideration of the promises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

TERMS:

1. **Recitals, Definitions, Superseder.** The foregoing Recitals are true and correct and, with any attachments hereto, are hereby incorporated by reference. All capitalized terms used but not otherwise defined or amended herein shall have the meanings ascribed to them in the Agreement. All provisions of the Agreement that are not specifically revised pursuant to this Amendment shall remain unaffected and shall continue in full force and effect under the terms of the Agreement. This Amendment shall be effective, and incorporated into the Agreement, as of the Effective Date of the Agreement. To the extent of any conflict between the terms of this Amendment and the terms of the Agreement, this Amendment shall govern. This Amendment may be executed by the Parties in counterparts. Except as otherwise modified herein, all of the terms and conditions of the Agreement are hereby ratified and confirmed.

2. **Revision to Section I.D.** Section I.D. of the Agreement is hereby superseded and replaced in its entirety with the following:

“D. “Other school official” means the Agency pursuant to School Board Policy 5.50.”

3. **Revision to Section II.A.** Section II.A. of the Agreement is hereby superseded and replaced in its entirety with the following:

“A. The parties acknowledge that the performance of this Agreement involves a process in which the School Board may disclose student education records or information contained therein to the Agency to carry out interagency programs and Agency programs serving a legitimate educational interest. The Agency agrees to limit access to such student education records to persons who have legitimate educational interests in the information contained in such records. Notwithstanding the foregoing, the School Board acknowledges and agrees that the Agency may (1) contract with or engage third party Research Organizations (as contemplated in 34 CFR § 99.31(a)(6) and § 1002.22(3)(d)(5), Florida Statutes), and (2) disclose student education records or information contained therein to such Research Organizations, in each case, to assist the Agency in the evaluation of information contained in student education records and to perform research in furtherance of the Parties' interests as described in Section II.E below, and in each case subject to each such Research Organization's entering into an Acknowledgement substantially in the form set forth as Exhibit A, attached hereto. The Parties further acknowledge their obligation to perform this Agreement in a manner that maintains compliance with the requirements of state and federal law,

including, but not limited to School Board Policy 5.50, § 1002.22, Florida Statutes and the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g and the regulations promulgated thereunder.”

4. **Section II.C.** Notwithstanding anything to the contrary, Section II.C. of the Agreement is hereby modified and amended to reflect the School District’s acknowledgement and agreement that the scope of confidential student information in which the Agency has a legitimate educational interest also includes information and data concerning student absences, discipline, schedules, special programs, demographics, test scores, grades and extracurricular activities.

5. **Revisions to Section II.D.** Section II.D. of the Agreement is hereby superseded and replaced in its entirety with the following:

“D. Except as otherwise specifically provided in Section II.A. hereof, pursuant to the requirements of Fla. Admin. Code Rule 6A-1.0955(6)(g), personally identifiable student information shall not be disclosed by the Agency in any form (even if the document is redacted) without the prior written consent of the adult student or the parent or guardian of the pupil, as appropriate. In the event a written consent is obtained, the Agency shall keep record of each request for disclosure, showing 1) persons who have requested and/or obtained such information and 2) the legitimate interest such persons have in requesting or obtaining this information.”

6. **Section II.E.** A new Section II.E. is hereby added as follows:

“E. The School Board and the Agency have both prioritized school success for children in Palm Beach County. Accordingly, in order to better plan, assess and evaluate the achievement of students, this Agreement will serve to allow the School Board to share data with the Agency for the following purposes:

1. **Evaluation:** To acquire data that will allow the Agency to assess the effectiveness of individual programs.

2. **Research:** To acquire data on students served by Agency administrated and/or funded programs and comparison groups to analyze the impact of systems of care and groups of programs that serve the same clients.

3. **Planning:** To acquire district, targeted geographic or school specific data to be aggregated and analyzed to facilitate planning for children's health, education, and human services.”

7. **Section III.E and Section III.F.** The following provisions are hereby added to Section III following paragraph D. thereof:

“; and

a. Subject to Section II.A., cooperate in the training of Agency personnel or Research Organizations who will be working with the records or information that is disclosed in accordance with the terms of this Agreement to ensure (i) compliance with applicable state and federal law and School Board Policy, (ii) understanding of the requirements of this Agreement, and (iii) understanding of the information or data disclosed in accordance with this Agreement, with the Parties acknowledging that the Agency shall have ultimate responsibility to ensure that those individuals employed or retained on its behalf have received the appropriate training for this purpose.

b. In addition to the information and data described in Section II.C., the Agency or its contractors may obtain additional data through information-gathering techniques such as surveys, subject to the following provisions:

1. The survey or other information-gathering techniques shall have been approved by the School Board's Superintendent or his/her designee;
2. A committee, to be comprised of staff of the School Board and the Agency (selected respectively by the School Board's Superintendent or his/her designee and the CEO of the Agency or his/her designee) shall review the proposed survey or other information-gathering technique in order to evaluate both the overall purpose of the collection of the data and the specific questions (including, as necessary, the phrasing of questions) used to collect such data; and
3. Said committee shall meet periodically to discuss any issues concerning surveys or other information-gathering techniques and, in particular, to discuss the presentation of the results thereof in order to: avoid misinterpretations, ensure data is not provided out of context, avoid other instances that would prevent a fair and accurate presentation of the data gathered.”

8. **Term.** Section VI.A. of the Agreement is hereby amended to reflect that the term of the Agreement shall expire five (5) years following the Effective Date.

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Signatures on following page

IN WITNESS WHEREOF, the undersigned have executed this Addendum to be effective as of the Effective Date defined above.

School Board:

Agency:

**SCHOOL BOARD OF
PALM BEACH COUNTY**

**HEALTH CARE DISTRICT
OF PALM BEACH COUNTY**

By: _____
Superintendent of Schools

By: _____
Dwight Chenette, CEO

By: _____
Chair of the School Board

By: _____
Chair of the District Board

Approved as to Form and
Legal Sufficiency:

Approved as to Form and
Legal Sufficiency:

Counsel for the School Board:

SACHS SAX KLEIN, P.A.
General Counsel for the District

By: Kimberly Hood 4/18/05
Associate Counsel

By: _____

EXHIBIT "A"

RESEARCH ORGANIZATION

ACKNOWLEDGEMENT

Concerning Disclosure of Student Information

Dated _____, 200__

1. The undersigned (the "Organization"), as a condition precedent to receiving personally-identifiable student data from the School District of Palm Beach County (the "School District") (whether directly or indirectly through an "other school official"), acknowledges and agrees to the following terms and conditions, which are intended to ensure that student records information will remain private and confidential in accordance with applicable law.
2. The Organization is an individual or entity assisting or under contract with an "other school official", i.e. the Health Care District of Palm Beach County (the "Health Care District") in connection with _____ **[name of project]**.
3. The Organization understands that the School District, in its discretion, may disclose personally-identifiable records or reports of a student for research purposes, without the consent of the student or the student's parent, but in accordance with § 1002.22(3)(d)6, Florida Statutes. The Organization further understands that such disclosures (whether directly, or indirectly through an other school official) are permitted to be made only to individuals or organizations (including federal, state, and local agencies or independent organizations) who are:
 - a. conducting studies for the School District (or another educational agency or institution); or
 - b. conducting studies on behalf of the School District (or another educational agency or institution).

The Organization further understands that the School District reserves the right to determine which studies are "on behalf of" the School District or other educational agency or institution. The Organization represents and warrants that its receipt of any personally-identifiable records or reports of a student from the School District or the Health Care District (acting in its role as an other school official) is for the foregoing purpose.

4. The Organization understands that the information to be released by the School District (or the Health Care District, acting in its role as an other school official) to the Organization falls within the scope described in Section II.C. of that certain Interagency Agreement between the School Board and the Health Care District which commenced December 8, 2004, as amended (the "Interlocal Agreement"), a copy of which is attached as Attachment "A" hereto and incorporated herein. The Organization warrants that data provided to it by the School District or Health Care District shall only be used for such purpose or purposes as set forth in the Interlocal Agreement. The Organization may, pursuant to its arrangement

or contract with the Health Care District, provide information it obtains from the School District to the Health Care District, so long as the Interlocal Agreement remains in effect.

5. The Organization represents and warrants the following information for purposes of the project named in paragraph 2 above (except as otherwise revised pursuant to written notice to the School District):
 - a. The name and title of the official(s) with the authority to bind the requesting Organization to this acknowledgement is: _____.
 - b. The names of the official(s) of the Organization in charge of the day-to-day operations involving the use of the data are as follows: _____, _____, _____, etc.
 - c. The names of the professional and support staff of the Organization who conduct the research and analysis as well as those who may have access to the data are as follows: _____, _____, _____, _____, etc.
6. The Organization acknowledges and agrees that, pursuant to 34 C.F.R. § 99.33(1)(a)(2), the officers, employees, and agents of the Organization may use the information only for the purposes for which the disclosure was made.
7. The Organization acknowledges and agrees to abide by the requirements of §1002.22(3)(d)6, Florida Statutes, that research studies using personally identifiable student data must be:
 - a. conducted in such a manner as will not permit the personal identification of students or their parents by persons other than authorized representatives of the Organization conducting the studies; and
 - b. personally-identifiable student information must be destroyed when no longer needed for the purpose of conducting the study. (As suggested by the U.S. Department of Education, the release of any personally-identifiable data to the Organization is considered a loan. The Organization agrees to destroy or return the data to the District when it is no longer needed for the purpose of conducting this study, and will not retain any copies of subsets of the data containing any personally-identifiable information.) The destruction of the data shall be carried out by shredding paper documents finely enough to prevent possible recovery of information, and by totally erasing and over-writing (or physically destroying) any electronic media such as computer files, tapes, or diskettes.
8. The Organization understands that, under Florida law, redaction of confidential student records does not render the records any less confidential and that even non-personally-identifiable information used in reports must be presented in *summary or statistical fashion*, rather than by presenting redacted student records per se. (If redacted versions of records must be presented in the report, prior parental/guardian consent is required.)

9. The Organization acknowledges and agrees that, as required by State Board of Education Rule 6A-1.0955(6)(g)2 and 34 C.F.R. § 99.33(a)(1), the School District bases its release of confidential data to the Organization on the continuing condition that the Organization not disclose any student information (other than non-personally-identifiable statistical or summary information as described above) to any other party without obtaining prior written consent of the parent/ guardian (consent of the adult student, in cases where the student is an emancipated adult).
10. The Organization warrants that it has appropriate security procedures in place to protect the confidentiality and integrity of data it receives. These procedures shall include, but are not limited to, appropriate procedures such as:
 - a. Computer security-- use and update passwords; implementing log-on procedures with automatic security data access shut-down function; assigning access security levels; integrating warning statements; preventing external access to any modems connected to the system while processing data on a computer; and using additional procedures to safeguard the data in networked environments.
 - b. Physical handling and storage of data-- cataloguing and storing data with lock and key; minimal allowance for, and secured storage of, printed copies; and additional restrictions on copying of data, such as only for the Organization's employees who have a legitimate need to work with the data to carry out the study.
 - c. Transportation of data-- ideally data should be transported only by a bonded courier with notice of the confidentiality and restricted use.
 - d. Affidavits of Non-Release-- Individuals in the Organization identified as having a legitimate need to access personally-identifiable student information shall be required to sign an affidavit of non-release similar to the example available at: http://nces.ed.gov/pubs97/p97527/Exh_6_3.asp . The Organization agrees to provide copies of signed Affidavits to the School District.
11. The Organization understands that it shall be liable, to the fullest extent allowed under applicable law and regulation, for its unlawful release or disclosure of student information. Further, the Organization acknowledges that, pursuant to 34 C.F.R. § 99.33(e), if the Organization is determined to have improperly disclosed personally-identifiable information from student education records, the School District cannot allow the Organization to access personally-identifiable information from education records for at least five years.

The Organization hereby acknowledges and agrees to the foregoing, as of the date first above written.

[Legal name of the Organization – if entity]

By: _____
[person having authority to enter legally-binding agreements on behalf of the Organization]

Date: _____

CONTRACT REVIEW CHECKLIST

Consistency with Law and School Board Policy:

	Comments
Consistent with School Board Policy	√
Consistent with Florida, federal and local laws	√

Contract Terms:

	Comments
Term (Duration of Contract)	5 years
Termination Clause	30 days w/o cause
Insurance /Liability Issues/ Indemnification	Risk Management should review and approve all insurance clauses.
Regulatory issues	None
Confidentiality Provision	Yes
Warranties	None
Labor Issues	The Labor Relations Department should review any issues.
Disclaimers	None
Governing Law & Venue	Florida; Palm Beach County

Business Principles:

	Comments
Sound Business Principles	
Reasonableness of Fees	None
Payment Terms --Lump sum, installments --Payment Due dates --Late fees	None

Other Issues:

	Comments
Conflict of Interest Disclosures	None
Non-Negotiable Issues	None
Miscellaneous Issues	None
Appropriate Departmental Sign-off	Yes

Special Considerations: __

The issues noted above were explained to the appropriate District staff and/or Division Chief. YES NO

Kimberly Hall 4/18/05
 By: Attorney (Name and Date)