

9010/6511



THE SCHOOL DISTRICT OF PALM BEACH COUNTY
Agreement between the
School Board of Palm Beach County
and Erna Foushee

Table with 2 columns: AGENDA ITEM NUMBER, BOARD MEETING DATE (June 29, 2005); CONTACT (Alison Adler), PK (50916); SCHOOL / DEPARTMENT (Department of Safe Schools)

THIS AGREEMENT is entered into this nineteenth day of July 2005 by and between the SCHOOL BOARD OF PALM BEACH COUNTY, hereinafter referred to as "Board" and Erna Foushee hereinafter referred to as "Consultant".

WHEREAS, the Board desires to enter into this Agreement with the Consultant, providing, among other things, for the Consultant's services to the Board; and

WHEREAS, the Consultant desires to enter into this Agreement with respect to his/her (hereinafter his) services to the Board, upon the terms and conditions hereinafter set forth.

WHEREAS, the Consultant is specially trained and possesses the necessary skills, experience, education and competency, and licenses or credentials to perform the required services.

NOW, THEREFORE, the Board and the Consultant agree as follows:

1. TERM

The term of this Agreement shall commence on July 19, 2005 and shall end on June 9, 2006

2. RESPONSIBILITIES OF CONSULTANT

A. The Consultant shall perform the following services:

Consultant will assist with School Based Teams, secure community agency services, and consult with faculty and administration to address student needs.

B. Time, date, and location of services:

July 19, 2005 through June 9, 2006

3. CONSULTANT BACKGROUND INFORMATION

Education Masters in Guidance and Counseling - North Carolina A&T State University

Position and Address Consultant - 565 Toxaway Drive, West Palm Beach, FL 33414

Target Group/School/Department Palm Beach Lakes High School low performing students

Approximate Number to be Served 1025

4. EVALUATION/FOLLOW-UP METHOD

Evaluation of the Consultant shall be provided by Alison Adler, Chief, Safety and Learning Environment

of the District at regular intervals and in accordance with the attached evaluation tool, Exhibit "A".

FINANCIAL IMPACT

The financial impact is \$53,160.00 The source of funds is Safe Schools/Healthy Students Federal Grant

Table with 8 columns: IA, FUND, FUNCTION, OBJECT, LOCATION, PROJECT, PROGRAM, GL. Row 1: 425, 9110, 3101, 9010, 5540, 6575

5. COMPLIANCE WITH POLICIES AND LAWS

The Consultant shall comply with all current School Board of Palm Beach County's Policies. The School Board's policies are located at http://www.palmbeach.k12.fl.us/ or www.schoolboardpolicies.com and are incorporated herein. It shall be the Consultant's responsibility to comply with all School Board Policies as they may be modified from time to time during the term of this Agreement. The Consultant shall abide by all applicable federal, state and local laws.

**6. COMPENSATION**

A. The School Board shall pay the Consultant the maximum sum of (*write out amount*)

Fifty three thousand one hundred sixty dollars

(\$ 53,160.00 ), for a maximum of 1772 hours which is based upon the following rate schedule.

Daily Rate: \_\_\_\_\_ Half Day Rate: \_\_\_\_\_ Hourly Rate: \$30.00 Flat Rate: \_\_\_\_\_

I grant permission for any or all parts of this presentation to be videotaped.  Yes  No

B. No payment shall be made unless and until the Board verifies that all services for which payment is requested have been fully and satisfactorily performed. The Consultant shall submit to the Board any documentation necessary to substantiate the full and satisfactory performance of the services for which payment is requested. The administrator who will verify the services have been performed and approve the invoice is:

Alison Adler, Chief, Safety and Learning Environment

**7. CONFIDENTIALITY OF STUDENT RECORDS**

The Consultant is subject to all School District obligations relating to compliance with student records confidentiality laws. By signing this Agreement, the Consultant acknowledges and agrees to comply with the Family Educational Rights and Privacy Act (FERPA) and all State and Federal Laws relating to the confidentiality of student records.

- Consultant will not receive student information.
- Consultant will receive student information and *Release or Transfer of Student Information* (PBSD 0313) will be completed prior to Consultant receiving student information.
- Consultant will receive student information. Since parental consent will not be obtained and Consultant has legitimate educational interests in the information, Consultant shall hereby be deemed an "other school official" in accordance with School Board Policy 5.50 and shall enter into the Addendum concerning student information (Exhibit C) which is attached hereto and incorporated herein.

**8. BACKGROUND CHECKS/FINGERPRINTING**

The School District shall screen applicants and shall be governed by Fl. Stat. § 1012.32(2)(a) [§ 231.02(2)(a)]. The Consultant agrees to submit to a background check and fingerprinting by the School District's Police Department at the sole cost of the Consultant. The Consultant shall not begin providing services contemplated by this Agreement until clearance by the School District. The School Board shall not be liable for rejection of the Consultant on the basis of these compliance obligations. The Consultant agrees that neither the Consultant, nor any employee, agent or representative of the Consultant who has been convicted or who is currently under investigation for a crime against children in accordance with § 435.04, Florida Statutes will enter onto any school site.

**9. INDEPENDENT CONTRACTOR**

The Consultant is, for all purposes arising under this Agreement, an independent contractor. The Consultant and its officers, agents or employees may not, under any circumstances, hold themselves out to anyone as being officers, agents or employees of the Board. No officer, agent or employee of the Consultant or Board shall be deemed an officer, agent or employee of the other party. Neither the Consultant nor Board, nor any officer, agent or employee thereof, shall be entitled to any benefits to which employees of the other party are entitled, including, but not limited to, overtime, retirement benefits, workers compensation benefits, injury leave, or other leave benefits.

**10. OWNERSHIP**

- A. All reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, and other materials produced by the Consultant under this Agreement shall be the sole and exclusive property of Board. No such materials produced, either in whole or in part, under this Agreement shall be subject to private use, copyright or patent right by the Consultant in the United States or in any other country without the express written consent of Board.
- B. Board shall have unrestricted authority to publish, disclose, distribute and otherwise use, copyright or patent any such materials produced by the Consultant under this Agreement.

**11. INDEMNIFICATION/HOLD HARMLESS**

The Consultant shall, in addition to any other obligation to indemnify the Palm Beach County School Board and to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the School District, their agents, officers, elected officials and employees from and against all claims, actions, liabilities, losses (including economic losses), costs arising out of any actual or alleged bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting there from, or any other damage or loss arising out of, or claimed to have resulted in whole or in part from any actual or alleged act or omission of the Consultant, or anyone

directly or indirectly employed by them, or of anyone for whose acts any of them may be liable in the performance of the work; or violation of law, statute, ordinance, governmental administration order, rule or regulation in the performance of the work; claims or actions made by the Consultant or other party performing the work. The indemnification obligations hereunder shall not be limited to any limitation on the amount, type of damages, compensation or benefits payable by or for Consultant under workers' compensation acts; disability benefit acts, other employee benefit acts or any statutory bar. Any cost or expenses, including attorney's fees, incurred by the Palm Beach County School District to enforce this agreement shall be borne by the Consultant. The Consultant recognizes the broad nature of this indemnification and hold harmless article, and voluntarily makes this covenant for good and valuable consideration provided by the School Board in support of this indemnification in accordance with the laws of the State of Florida. This article will survive the termination of this Agreement.

**12. TRAVEL**

Travel  is  is not allowable for this contract. Estimated travel expense is not to exceed N/A for the term of the contract. The Consultant agrees to submit all necessary documentation and proof of expenses in accordance with F. S. § 112.061 and School Board Policy #6.01. The Consultant further agrees that reimbursement for travel must be submitted on travel reimbursement forms with the rates determined by F.S. § 112.061 and School Board Policy 6.01 and must be authorized by the appropriate administrator(s).

**13. AMENDMENT**

This Agreement may be amended only with the mutual consent of the parties. All amendments must be in writing and must be approved by the School Board.

**14. ASSIGNMENT**

Neither the Consultant nor the Board may assign or transfer any interest in this Agreement without the prior written consent of the other party.

**15. GOVERNING LAW AND VENUE**

This Agreement shall be construed in accordance with the laws of the State of Florida. Any dispute with respect to this Agreement is subject to the laws of Florida, venue in Palm Beach County, Florida. The prevailing party shall be entitled to attorney's fees and costs incurred as a result of any action or proceeding under this agreement. Each Party shall be responsible for its own attorney's fees.

**16. TERMINATION**

The Board reserves the right to terminate this contract at any time and for any reason, upon giving thirty (30) days notice to the other party. If said contract should be terminated for convenience as provided herein, the Board will be relieved of all obligations under said contract and the Board will only be required to pay that amount of the contract actually performed to the date of termination with no payment due for unperformed work or lost profits. In the event School Board determines that the Consultant's services are not being performed as agreed upon, the Consultant shall be deemed to be in default and the School Board reserves the right to cancel this contract with five (5) days notice and to withhold all monies due the Consultant until such time as the Board, in its sole discretion shall determine whether to have the contract services completed by others or to cease obtaining the services. In the event that the Board determines to have the contract completed by others, the Consultant shall be liable for any costs of completion in excess of that called for in this contract. In the event that the Board determines not to have the contract completed by others, the Consultant shall be paid for the services that it satisfactorily performed prior to the termination but, in no event, shall the Consultant be paid for any work not actually performed or for lost profits.

In the event that it is determined that a termination for cause was unjustified, the termination shall be deemed a termination for convenience and the Consultant shall be entitled to payment only for work actually performed prior to the termination and to any additional sums.

**17. MINORITY STATUS**

The School District strongly encourages active minority/women business enterprise participation with all professional services. The Consultant certifies that:

This business is minority owned and operated (minimum 51%)  Yes  No

If a consultant not representing a firm, I am a minority.  Yes  No

If either statement above was checked yes, please indicate minority group.

Black or African American  Asian  Native Hawaiian or Other Pacific Islander  Hispanic or Latino  
 American Indian or Alaskan Native  Disabled  White Female  Other

**18. LEGAL REVIEW**

The parties hereto represent that they have reviewed the Agreement and have sought legal advice concerning the legal significance and ramifications of the provisions contained herein.

19. NOTICES

Any notice permitted or required under this Agreement shall be in writing and signed by the party giving or serving the same, and shall be served either by personal delivery or certified mail to the following persons and at the following addresses:

Consultant: (Add Consultant's address)

Erna Foushee
565 Toxaway Drive
West Palm Beach, Florida 33413 (561) 478-7027

SCHOOL BOARD OF PALM BEACH
COUNTY, FLORIDA
Purchasing Department
3300 Forest Hill Boulevard, Suite A 323
West Palm Beach, Florida 33406

20. MANDATORY CONTRACT DOCUMENTS

This Agreement includes the terms and conditions set forth in this document, and set forth in the following additional documents attached hereto and incorporate herein: (approval will not be granted without these mandatory attachments)

- "Exhibit A" - Provide consultant evaluation
"Exhibit B" - Beneficial Interest and Disclosure of Ownership Affidavit (PBSD 1997)

NOW, THEREFORE, the parties hereto have affixed their signatures on the day and year first above written.

This contract was recommended for approval by:

Handwritten signature of Kimberly Hall, dated 5-12-05
SIGNATURE OF LEGAL SERVICES DESIGNEE DATE

Kimberly Hall
PRINT NAME

Handwritten signature of Alison Adler, dated 5/11/05
SIGNATURE OF CHIEF OFFICER DATE

Alison Adler, Chief, Safety and Learning Environment
PRINT NAME

SIGNATURE OF PRINCIPAL / DIRECTOR DATE

PRINT NAME

Handwritten signature of Ann Killets, dated 5-16-05
SIGNATURE OF APPROPRIATE ASSOCIATE / AREA / ASSISTANT SUPERINTENDENT DATE

Ann Killets, Chief Academic Officer
PRINT NAME

The School Board of Palm Beach County, Florida

Consultant

By: THOMAS E. LYNCH, CHAIRMAN

DATE

Attest:

By: ARTHUR C. JOHNSON, Ph. D., SUPERINTENDENT

DATE

Witnesses: (Two are required)

SIGNATURE

PRINT NAME

SIGNATURE

PRINT NAME

Erna Foushee
PRINT CONSULTANT NAME

By: Handwritten signature of Erna Foushee
SIGNATURE

5/10/05
DATE

Erna Foushee
PRINT NAME

Witnesses: (Two are required)

Handwritten signature of Victoria Long
SIGNATURE

Victoria Long
PRINT NAME

Handwritten signature of Lee Graves
SIGNATURE

LEE GRAVES
PRINT NAME

**AGREEMENT, concerning student information for the purpose of research, dated July 19, 2005 between School Board of Palm Beach County ("School Board")**

**and Erna Foushee' (research "Organization")**

1. The research Organization, as a condition precedent to receiving personally-identifiable student data from the School District of Palm Beach County, solemnly agrees to the following terms, which are intended to ensure that student records information will remain private. The conditions of release are defined and limited, and penalties for inappropriate use or release of information are stated.
2. The 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 Florida Statutes § 1002.22(3)(d)6, such disclosure shall be only to individuals or organizations (including federal, state, and local agencies or independent organizations) who are:
  - a. conducting studies for the District (or another educational agency or institution); or
  - b. conducting studies on behalf the District (or another educational agency or institution) (and the District reserves the right to determine which studies are to be deemed "on behalf of" the District or other educational agency or institution).

The Organization warrants that the applicable category is:

a

3. The District can release the data to the research Organization without parental consent, but only for one of the following purposes allowed by Florida Statutes § 1002.22(3)(d)6:
  - a. developing, validating, or administering predictive tests;
  - b. administering student aid programs; or
  - c. improving instruction.

The Organization warrants that the applicable purpose is: c

4. The following information applies to the data to be released for this research project:
  - a. The data requested by the Organization (with specific items listed) are: Student Demographic files (TERMS) Data, SSAASY,
  - b. The Organization's reasons for requesting the data are: to carry out job responsibilities.
  - c. The data will be used and analyzed as follows: to be determined by the Department of Safe Schools.
  - d. The analyses will be presented and reported as follows: to be determined by the Department of Safe Schools.

- e. The Organization estimates that it will need the data for the following amount of time: to be determined by the Department of Safe Schools.
  - f. The Organization requests the data to be provided in the following format: to be determined by the Department of Safe Schools. [e.g., paper, diskette, etc.].
  - g. The name and title of the official(s) with the authority to bind the requesting organization to this agreement is: Alison Adler.
  - h. The names of the official(s) in charge of the day-to-day operations involving the use of the data is: Erna Foushee'.
  - i. The names of the professional and support staff who conduct the research and analysis as well as those who may have access to the data is: Erna Foushee'.
5. Pursuant to 34 C.F.R. § 99.33(1)(a)(2), the officers, employees, and agents of the research organization may use the information only for the purposes for which the disclosure was made.
  6. The Organization pledges to abide by the conditions required by Florida Statute § 1002.22(3)(d)6, that such studies 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. the personally-identifiable information must be destroyed when no longer needed for the purpose of conducting this 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, or physically destroyed.
  7. The research Organization understands that, under Florida law, redaction of confidential student records does not render the records any less confidential. Thus, 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.)
  8. Moreover, as required by State Board of Education Rule 6A-1.0955(6)(g)2 and 34 C.F.R. § 99.33(a)(1), the District bases its release of confidential data to the researcher on the condition that the researcher shall 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).

9. The Organization warrants that it has appropriate security procedures in place to protect the data. 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](http://nces.ed.gov/pubs97/p97527/Exh_6_3.asp) . Copies of the signed Affidavits shall be provided to the School District.

10. The Organization understands that it shall be liable, to the fullest extent allowed under applicable laws, for unlawful release of the student information. Moreover, pursuant to 34 C.F.R. § 99.33(e), if the Organization is determined to have improperly redisclosed personally-identifiable information from education records, the School District cannot allow the Organization to access personally-identifiable information from education records for at least five years.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement:

\_\_\_\_\_  
[Legal name of the Organization]

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

The School Board of Palm Beach County  
[Party as listed on the original contract, such as The School Board of Palm Beach County]

By: \_\_\_\_\_