

TEACHER REFERRAL AGREEMENT
(Teach for America)

This Teacher Referral Agreement (“Agreement”) made effective as of the 1st day of July, 2004 (“Effective Date”) is by and between the **Board of Education of the City of Chicago**, a body politic and corporate, (“Board”), and **Teach for America** (“Agency”).

RECITALS

- A. Agency maintains, through a partnership with Dominican University, a twelve-month Alternative Teacher Certification Program (“Certification Program”) in accordance with 105 ILCS 5/21-5b that requires participants to be assigned to a full-time teaching position for one school year under a provisional alternative teaching certificate; and
- B. The Board desires to contract with Agency to refer up to 75 provisionally-certified teacher candidates to the Board who are enrolled in Agency’s Certification Program to serve as teacher-interns at a Chicago Public School (“CPS”); and
- C. Agency has represented that it has the requisite knowledge, skill, experience and other resources necessary to perform such teacher referral services and is ready, willing and able to provide such services as may be required by Board.

NOW, THEREFORE, in consideration of the foregoing, the mutual promises, covenants and undertakings set forth herein, the parties hereby agree as follows.

- 1. **Incorporation of Recitals.** The matters recited above are hereby incorporated into and made a part of this Agreement.
- 2. **Term.** The term of this Agreement shall commence on July 1, 2004 and shall end June 30, 2005, unless terminated sooner as provided herein.
- 3. **Scope of Services.** Agency agrees to provide the teacher referral services as specified on Exhibit A and provide the deliverables set forth herein (“Referral Services”) in accordance with the terms and conditions of this Agreement. The Board may, from time to time, request changes in the scope of Referral Services. Any such changes, including any increase or decrease in Agency’s Referral Fee, shall be documented by amendment as set forth in this Agreement.
- 4. **Standards of Performance.** Agency agrees for itself and to cause all of its employees, staff and subcontractors to devote such time, attention, skill, knowledge and professional ability as is necessary to perform Referral Services effectively and efficiently consistent with the best interests of the Board. Agency shall perform all Referral Services to the reasonable satisfaction of the Board.
- 5. **Outcomes/Deliverables.** The Referral Services shall be designed to achieve the expected outcomes that are set forth on Exhibit A (“Outcomes”). A description of deliverables, including required submittals, documents, plans, reports and other materials to be provided to the Board in connection with the Referral Services performed and the expected completion date(s), are set forth on Exhibit A (“Deliverables”). All Deliverables shall be prepared in a form and content satisfactory to the Board.
- 6. **Compensation and Payment.**
 - 6.1 **Compensation.** Agency will be paid a referral fee of \$4,500 for each teacher candidate referred by Agency to the Board who serves as a CPS teacher-intern for a full school year (“Referral Fee”). The Total Maximum

Referral Fees payable for Referral Services provided during the term shall not exceed \$337,500. The provision of any Referral Services which shall exceed the Total Maximum Referral Fee amount specified above requires Board approval prior to any such Referral Services being rendered by Agency. Compensation for Referral Services shall be based on actual teacher candidates referred by Agency and the referred teacher candidate's completion of the Certification Program including the CPS internship. The Board shall not be obligated to pay for any Referral Services not in compliance with this Agreement. In the event of early termination of this Agreement, the Board shall only be obligated to pay the fees incurred up to the date of termination. In no event shall the Board be liable for any costs incurred or Referral Services performed after the effective date of termination as provided herein. Agency recognizes and acknowledges that it has an affirmative duty to monitor its performance and billings to insure that the scope of Referral Services is completed within the Total Maximum Referral Fees amount.

6.2 **Payment.** Agency shall submit to the Board's Department of Human Resources two invoices referencing this Agreement with such supporting documentation as may be requested by the Board. The Referral Fee payable hereunder shall be remitted, upon invoicing, in two installments. The first installment of \$168,750 is payable on or about July 1, 2004, and represents payment of one-half the total Referral Fee based on an estimate of the Board accepting all 75 Agency teacher candidate referrals. On January 1, 2005 Agency will be paid the second installment which payment represents the balance of actual Referral Fees due hereunder taking into account the number of Agency referrals who actually received CPS teacher-intern positions and prorated deductions for referred teacher candidates who dropped out or withdrew from their CPS teacher-intern position and did not complete the full school year assignment (not to exceed \$168,750.00). The Board will process all payments in its normal course of business.

6.3 **Non-Appropriation.** Expenditures not appropriated in the current fiscal year budget are deemed to be contingent liabilities only and are subject to appropriation in subsequent fiscal year budgets. In the event sufficient funds are not appropriated in a subsequent fiscal year by the Board for performance under this Agreement, the Board shall notify Agency and this Agreement shall terminate on the last day of the fiscal period for which funds were appropriated. In no event shall the Board be liable to the Agency for any amount in excess of the current appropriated amount.

7. **Audit and Document Retention.** Agency and all subcontractors shall maintain records showing time expended in performing Referral Services, costs incurred and actual Referral Services performed. All records referenced above shall be retained for five (5) years after completion of Referral Services and shall be subject to inspection and audit by the Board.

8. **Termination.**

8.1 **Termination for Convenience.** If at any time during the term of this Agreement the Board, in its sole discretion, determines that the Referral Services provided by Agency are no longer in its best interest, the Board has the option to terminate this Agreement on thirty (30) calendar days written notice to the Agency. Upon receipt of such notice, unless agreed otherwise by the parties, Agency shall restrict its work to the completion of Deliverables already in process.

8.2 **Events of Default.** Events of default include but are not limited to the following:

- (a) Any misrepresentation by Agency in the inducement of this Agreement or the performance of Referral Services;
- (b) Breach of any agreement, representation or warranty made by Agency in this Agreement; and
- (c) Failure of Agency to perform or timely perform in accordance with or comply with the terms and conditions of this Agreement.

8.3 **Remedies.** In the event Agency defaults under this Agreement and such default is not cured within fifteen (15) calendar days after written notice is given by the Board the following actions may be taken by the Board:

- (a) This Agreement may be terminated immediately; and

(b) The Board may deem Agency non-responsible for future contract awards. The remedies herein are not intended to be exclusive and the Board may pursue all other remedies available at law or equity.

9. **Confidential Information, Dissemination of Information, Ownership, Survival**

9.1 **Confidential Information.** In performance of Referral Services to the Board, Agency may have access to or receive certain information that is not generally known to others (“Confidential Information”). Agency agrees to not use or disclose any Confidential Information or any records, reports, Deliverables or documents prepared or generated as a result of this Agreement (“Work Product”) without the prior written consent of the Board or its designee. Agency further agrees to (a) receive and hold in confidence all Confidential Information and Work Product, and (b) use such Confidential Information solely for purposes of performing Referral Services hereunder, and (c) protect and safeguard all Confidential Information and Work Product from unauthorized disclosure. Confidential Information shall not include that which is or hereafter becomes part of the public domain other than through disclosure by Agency and that which Agency can show to have been independently developed by Agency.

9.2 **Dissemination of Information.** Agency shall not issue publicity news releases or grant press interviews, except as may be required by law, during or after the performance of the Referral Services, nor shall Agency disseminate any information regarding Referral Services without the prior written consent of the Board. In the event that Agency is presented with a request for documents by any administrative agency or with a *subpoena duces tucem* regarding any Confidential Information or Work Product which may be in Agency’s possession as a result of Referral Services under this Agreement, Agency shall immediately give notice to the Board and its General Counsel with the understanding that the Board shall have the opportunity to contest such process by any means available to it prior to submission of any documents to a court or other third party. Agency will not be obligated to withhold delivery of documents beyond the time ordered by a court of law or administrative agency, unless the request for production or subpoena is quashed or withdrawn, or the time to produce is otherwise extended. Agency agrees to cause its staff and/or subcontractors, if any, to undertake the same obligations of confidentiality agreed to by Agency under this Agreement.

9.3 **Ownership.** All Confidential Information, Work Product, including any and all other materials, records, reports, documents prepared or generated by Agency as a result of this Agreement, shall at all times be and remain the property of the Board. All of the foregoing items shall be delivered to the Board upon demand at any time and in any event, shall be promptly delivered to the Board upon expiration or termination of the Agreement. In the event any of the above items are lost or damaged while in Agency's possession, such items shall be restored or replaced at Agency's expense.

9.4 **Survival.** The provisions of this Section 9 shall survive the termination or expiration of this Agreement.

10. **Representations and Warranties of Agency.** Agency represents and warrants that the following shall be true and correct as of the Effective Date of this Agreement and shall continue to be true and correct during the term of this Agreement:

10.1 **Contractor Disclosure Form.** Agency has completed and executed the Board’s Contractor Disclosure Form. Agency shall promptly notify the Board of any material change in information set forth therein and any such change shall be subject to Board approval which shall not be unreasonably withheld.

10.2 **Compliance with Laws.** Agency is and shall remain in compliance with all local, state and federal laws, ordinances, regulations and statutes relating to this Agreement and the performance of the Referral Services. Further, Agency is and shall remain in compliance with all Board policies and rules.

10.3 **Gratuities.** No payment, gratuity or offer of employment was made by or to Agency or by or to any subcontractors to the best of Agency’s knowledge in relation to this Agreement or as an inducement for award of

this Agreement. Agency is and shall remain in compliance with all applicable anti-kickback laws and regulations.

10.4 **Ethics.** No officer, agent or employee of the Board is or will be employed by Agency or has or will have a financial interest, directly or indirectly, in this Agreement or the compensation to be paid hereunder except as may be permitted in writing by the Board's Ethics Policy No. 99-0728-PO1, as amended from time to time, which is hereby incorporated by reference into and made a part of this Agreement.

10.5 **Good Standing.** Agency is not in default or have not been deemed by the Chief Purchasing Officer of the Board ("Chief Purchasing Officer") to be in default under any other Agreement with the Board during the five (5) year period immediately preceding the Effective Date of this Agreement.

10.6 **Authorization.** Agency has taken all action necessary for the approval and execution of this Agreement, and execution by the person signing on behalf of Agency is duly authorized by Agency and has been made with complete and full authority to commit Agency to all terms and conditions of this Agreement which shall constitute valid, binding obligations of Agency.

10.7 **Certifications.** All teacher candidates referred by Agency hereunder have the proper accreditations, certifications and/or licenses necessary to serve as a teacher in the Chicago Public Schools.

11. **Independent Contractor.** It is understood and agreed that the relationship of Agency to the Board is and shall continue to be that of an independent contractor and neither Agency nor any of Agency's agents, employees or subcontractors shall be entitled to receive Board employee benefits. It is further understood and agreed that the Board shall not be responsible for, nor incur any liability for, any state or federal withholding or other taxes or for FICA or state unemployment insurance for Agency, its agents, employees or subcontractors, and the payment of any such taxes incurred or due by Agency shall be the sole responsibility of Agency. Agency agrees that neither Agency nor its employees, staff or subcontractors shall represent themselves as employees or agents of the Board. Agency shall provide the Board with a valid taxpayer identification number as defined by the United States Internal Revenue Code, including but not limited to a social security number and/or a federal employer identification number.

12. **Indemnification/Non Liability of Board Officials.** Agency agrees to defend, indemnify and hold harmless the Board, its members, trustees, employees, agents, officers and officials, from and against any and all liabilities, taxes, tax penalties, interest, losses, penalties, damages, expenses, of every kind, nature and character, including costs and attorney fees, arising out of, or relating to, any and all claims, liens, damages, obligations, actions, suits, judgments or settlements, or causes of action, of every kind, nature and character, in connection with or arising out of the negligence, acts or omissions of Agency its officials, agents, subcontractors and/or employees under this Agreement. This includes but is not limited to the unauthorized use of any trade secrets, U.S. patent, trademark or copyright infringement. The indemnities set forth herein shall survive the expiration or termination of this Agreement. Agency further agrees that no Board member, trustee, employee, agent, officer or official shall be personally charged by Agency, or subcontractors with any liability or expense or be held personally liable to Agency, or subcontractors under this Agreement.

13. **Non Discrimination.** It shall be an unlawful employment practice for Agency or subcontractors to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to compensation, or other terms, conditions, or privileges of employment, because of such individual's race, color, ancestry, religion, sex, sexual orientation, age, handicap, marital status, parental status, military discharge status or national origin; or to limit, segregate, or classify employees or applicants for employment from equal employment opportunities or otherwise adversely affect an individual's status as an employee because of such individual's race, color, ancestry, religion, sex, sexual orientation, age, handicap, marital status, parental status, military discharge status or national origin. Agency shall comply with the Civil Rights Act of 1964 as amended, 42 U.S.C.A. Sec. 2000, *et. seq.*; The Age Discrimination in Employment Act, 29 U.S.C.A. '621, *et. seq.*; Section 504 of the

Rehabilitation Act, 20 U.S.C.A. '701, et. seq.; as amended; Americans With Disabilities Act, 42 U.S.C.A. '12101, et. seq.; the Illinois Human Rights Act, 775 ILCS 5/1-10 as amended; and the Chicago Human Rights Ordinance, MCC ch. 2-160.

14. **M/WBE Plan.** Agency acknowledges that it is familiar with the requirements of Board's Revised Remedial Plan for Minority and Women Business Enterprise Economic Participation ("Plan") and agrees to comply with the Plan and to submit such documentation in connection with the Plan as may be requested by the Board.

15. **Notices.** All notices required under this Agreement shall be in writing and sent to the address set forth below.

IF TO THE BOARD: Board of Education of the City of Chicago
125 S. Clark, 7th Floor
Chicago, Illinois 60603
Attn: General Counsel
With a copy to: Chief Education Officer
125 South Clark Street 5th Floor
Chicago, Illinois 60603

IF TO AGENCY: Teach for America
820 N. Orleans Street, Suite 320
Chicago, IL 60610
Attention: Managing Director, Regional Operations

16. **Assignment and Sub-Contracts.** This Agreement shall be binding on the parties and their respective successors and assigns, provided however, that neither party may assign this Agreement or any obligations imposed hereunder without the prior written consent of the other party. Agency shall not subcontract any obligation hereunder to any third person/party without the prior written consent of the Board or its designee.

17. **Entire Agreement; Amendment.** This Agreement including all exhibits and referenced documents constitutes the entire agreement of the parties with respect to the matters contained herein. No modification or amendment to the Agreement shall be effective unless such modification or amendment is in writing and signed by both parties hereto. Any prior agreements or representations, either written or oral relating to the subject matter of this Agreement not expressly set forth herein are of no force or effect. If any provision of this Agreement is deemed invalid under any applicable statute or rule of law, it is to that extent deemed omitted from this Agreement.

18. **Survival/Construction:** All express representations, warranties or indemnifications made or given in this Agreement shall survive the expiration or the termination of this Agreement for any reason. This Agreement shall be construed fairly as to both parties and not in favor of or against either party, regardless of which party prepared the Agreement.

19. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without regard to any conflict of law or choice of law principles.

20. **Waiver.** No delay or omission by the Board to exercise any right hereunder shall be construed as a waiver of any such right and the Board reserves the right to exercise any such right from time to time as often and as may be deemed expedient.

21. **Incorporation of Exhibits.** All exhibits attached hereto or referenced herein are incorporated into and

made a part of this Agreement.

22. **Conflict of Interest.** This Agreement is not legally binding on the Board if entered into in violation of the provisions of 105 ILCS 5/34-21.3 which restricts the employment of, or the letting of contracts to, former Board Members during the one-year period following expiration or other termination of their terms of office.

23. **Indebtedness.** The Agency agrees to comply with the Board's Indebtedness Policy 96-0726-PO3, as amended from time to time, which is hereby incorporated by reference as if fully set forth herein.

24. **Inspector General.** Each party to this Agreement hereby acknowledges that in accordance with 105 ILCS 5/34-13.1, the Inspector General of the Board of Education of the City of Chicago has the authority to conduct certain investigations and that the Inspector General shall have access to all information and personnel necessary to conduct those investigations.

25. This Agreement is subject to approval by the Members of the Chicago Board of Education.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

**BOARD OF EDUCATION OF
THE CITY OF CHICAGO**

By: Michael W. Scott
Michael W. Scott, President

Attest: Estela G. Beltran
Estela G. Beltran, Secretary

TEACH FOR AMERICA

By: John C. White

Name: John C. White

Title: Executive Director

Attest: _____
Secretary

Board Report No: 04-0428-PR33

Approved as to legal form: RM
Ruth M. Moscovitch
Ruth M. Moscovitch, General Counsel

Attachments: Exhibit A - Services, Deliverables, Outcomes

Exhibit A
Referral Services, Deliverables, Outcomes

Referral Services: Agency will refer up to 75 teacher candidates to the Board's Department of Human Resources to serve as one-year teacher interns in a CPS classroom. All individuals referred by Agency will be:

1. Enrolled at Dominican University and actively participating in the Certification Program to receive their Illinois Alternative Initial Teaching Certificate.
2. Screened and selected for referral by Agency in accordance with Agency's written qualification plan that includes evaluation of work history, transcripts, essays, references and a commitment to teach in a school that services a low-income community.
3. Provisionally certified by the State of Illinois in accordance with 105 ILCS 5/21-5b.
4. Suited for placement in the Chicago Public Schools teacher shortage areas, whether related to subject-area, discipline or geographic region, as specified by the Department of Human Resources.
5. U.S. citizens or aliens legally registered with the U.S. Department of Immigration and Naturalization.

The Board at its sole discretion may establish further qualifications, credentials and placement criteria necessary for teacher candidates referred by Agency hereunder. The Board reserves the right to reject any teacher candidate referred by Agency.

Those teacher candidates referred by Agency who are accepted by the Department of Human Resources shall be placed in a teacher intern position at a Chicago Public School and shall receive the employment status and benefits as specified by the Board's Department of Human Resources.

Agency will provide all referred and accepted teacher candidates with the mentoring, classroom observation and other support and evaluation services consistent with the terms of its Certification Program.

Agency shall promptly notify the Board's Department of Human Resources as to any referred teacher intern who has withdrawn from Agency's Certification Program or who is not actively participating in the Certification Program.

Deliverables: By December 15, 2004 Agency shall provide a report to the Board's Department of Human Resources on the status of each teacher-intern in Agency's Certification Program.

By June 30, 2005 Agency shall provide a report to the Board's Department of Human Resources on all teacher interns as to whether they were successful or unsuccessful in receiving their Illinois Alternative Initial Teaching Certificate.

Outcomes: 90% of Agency-referred teacher interns will receive their Alternative Initial Teaching Certificate.