

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (“Agreement”) is entered into this 6th day of April 2017, by and between the School Board of Clay County, Florida (hereinafter “School Board” or “Board”) and David J. D’Agata, Esq. (hereinafter “Mr. D’Agata” or “Attorney”).

RECITALS

WHEREAS, the School Board wishes to appoint and employ Mr. D’Agata pursuant to section 1.02.D, School Board Policies; and

WHEREAS, the School Board desires the services of Mr. D’Agata as its attorney on a full-time basis as a School Board employee; and

WHEREAS, Mr. D’Agata is willing to accept employment by the School Board pursuant to the terms of this Agreement.

NOW THEREFORE, in consideration of the premises herein provided and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Board and Mr. D’Agata agree as follows:

1. Recitals: The foregoing recitals are true, correct, and incorporated herein by reference.

2. Term: This is a two-year Agreement, which commences April 24, 2017, and ends April 24, 2019, unless sooner terminated pursuant to the terms herein stated.

3. Employment of Attorney: The School Board hereby appoints and employs Mr. D’Agata as a full-time employee of and attorney for the School Board. In that capacity, Mr. D’Agata will also represent the Superintendent of the School District of Clay County, Florida (“Superintendent”) and the School District of Clay County, Florida (“School District”) subject to the provisions set forth in section 4 below. Mr. D’Agata shall devote his full professional time exclusively to the obligations herein provided and may not accept any other employment or legal representation absent prior written consent of the School Board.

4. Duties of Attorney: Mr. D’Agata shall be responsible for rendering legal services and supplying legal advice on all matters affecting the School Board, the School District, and Superintendent consistent with Florida law, School Board Policy, and the Rules of Professional Conduct (“RPC”) governing legal professionals as promulgated by the Florida Bar. Accordingly, Mr. D’Agata shall be responsible for identifying actual and potential conflicts of interests between or among the School Board, Superintendent, and other School District employees or agents arising from or related to the legal services herein described. To the extent practicable and appropriate under the RPC and Florida law, Mr. D’Agata shall advise the School Board and Superintendent of any such conflict and its potential ramifications. Furthermore, Mr. D’Agata shall take reasonable steps to avoid any conflict of this nature which may include, without limitation, declining representation of the School Board, Superintendent, and any School District

agent or employee, and recommending their engagement of separate legal counsel. If a conflict arises and the RPC and Florida law permit him to continue representation of the School Board but not the Superintendent and/or School District agents or employees regarding a legal matter or proceeding, Mr. D'Agata shall continue to represent the School Board with respect to such matter or proceeding.

5. Compensation: While employed with the School District, Mr. D'Agata shall receive an annual salary of One Hundred Thirty Thousand Dollars (\$130,000) less customary and appropriate tax withholdings. This salary is fixed but may be raised annually at the discretion of the School Board.

6. Retirement and Benefits: The School Board will provide Mr. D'Agata with all non-wage benefits it provides to senior level administrators of the School District. Such benefits will include participation in the Florida Retirement System ("FRS") at the senior management level and in such other programs and benefit plans for which he is or may become eligible. Mr. D'Agata shall accrue all leave, including sick leave, vacation leave, and professional leave, at the same rates applicable to senior administrative personnel of the School District. Further, the School Board shall provide to Mr. D'Agata and his family the same health, dental, vision, life, and disability insurance available to other senior administrative personnel.

7. Work Conditions: The School Board shall provide for Mr. D'Agata at its expense an office, support services, and equipment necessary to effectively and efficiently carry out his duties as School Board Attorney. This includes computer equipment and access to Westlaw computerized research programs as well as mobile phone services generally provided to senior administrative personnel. The Board shall also provide a full-time professional secretary acceptable to Mr. D'Agata and the School Board.

8. Professional Development and Expenses: At his election, the School Board shall pay Mr. D'Agata's membership dues for the following professional associations and organizations: The Florida Bar; The Florida School Board Attorney's Association, and The Clay County Bar Association. With the Board's approval, the Board agrees to pay for registration fees necessary to attend select conferences and seminars concerning Education Law and/or other legal topics and issues bearing on the scope of services rendered under this Agreement. To the extent necessary, and with Board approval, professional leave shall be granted to allow Mr. D'Agata to participate in such conferences and seminars.

9. Personnel Policies: The personnel policies and procedures governing the employment of administrative personnel of the School District shall apply to Mr. D'Agata except to the extent that such policies and procedures are inconsistent with the terms of this Agreement, in which case the terms of this Agreement shall control.

10. Indemnification: The School Board shall defend, hold harmless, and indemnify Mr. D'Agata from any and all demands, claims, suits, actions, and legal proceedings brought against him in an individual or official capacity for any matter arising from the scope of his employment. Nothing in this section shall be construed to expand the waiver of sovereign

immunity and limits of liability set forth under §768.28, Florida Statutes. Such obligations shall continue for a period of five (5) years after the termination of this Agreement.

11. Evaluation: The School Board shall conduct a review of Mr. D'Agata's job performance after Mr. D'Agata has completed his initial 90 days and six months of employment, respectively, and the Board may issue to him a written evaluation containing performance objectives and time frames. Thereafter, the School Board may issue a written evaluation each calendar year.

12. Termination: If either party seeks to terminate, extend, modify or supplant this Agreement at the conclusion of its two year term, that party shall provide 60 days' written notice of their intention to do so to the other party. Otherwise, this Agreement shall renew and continue indefinitely.

This Agreement may be terminated at any time if any of the following occurs:

- a. The School Board determines that it has Cause to terminate the Attorney's employment, with Cause defined as the Attorney (i) committing legal malpractice, (ii) engaging in conduct which constitutes a crime under applicable laws, (iii) violating the RPC, (iv) failing to remain as a member in good standing of The Florida Bar, (v) failing to timely carry out a directive of the School Board, (vi) ceasing to perform services on a regular, full-time basis, or (vii) engaging in conduct in or outside of work which causes adverse publicity to the School Board or the School District.
- b. The Attorney dies or becomes permanently disabled such that he can no longer perform the essential functions of a School Board Attorney with or without reasonable accommodations.

Either Mr. D'Agata or the School Board may terminate Mr. D'Agata's employment under this Agreement at will upon 8 weeks' written notice. If Mr. D'Agata terminates his employment under this Agreement, he shall fulfill his responsibilities under the RPC to transition representation to successor counsel.


13. Amendment: This Agreement constitutes the entire understanding of the parties relative to the School Board's employment of Mr. D'Agata and may not be amended except by written agreement signed by an authorized representative of the School Board and Mr. D'Agata.

14. Jury Trial Waiver: As to any dispute between the parties under this Agreement, each party waives the right to a trial by jury on any issue so triable.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below.

SCHOOL BOARD OF CLAY COUNTY, FLORIDA

By: _____ Date: _____
Janice Kerekes
Chair of the School Board of Clay County, Florida

By:  _____ Date: 03/29/17
David J. D'Agata, Esq.

Accepted and attested to by:

_____ Date: _____
Addison Davis
Superintendent of Clay County Schools