

SUPERINTENDENT'S EMPLOYMENT AGREEMENT

This Agreement was approved by the parties at the public meeting held June 17, 2014, and is effective as of the 1st day of July, 2014, by and between the **SCHOOL BOARD OF OSCEOLA COUNTY, FLORIDA** ("School Board") and **MELBA LUCIANO** ("Superintendent").

WITNESSETH:

WHEREAS, this Agreement is effective July 1, 2014, and prior to that effective date the relationship between the parties is governed by the previously entered Employment Agreement entered by these parties; and

WHEREAS, the School Board wishes to continue the employment of the Superintendent to provide all of the services of Superintendent, fully and faithfully, consistent with the spirit, intent and statutory requirements regarding the duties and responsibilities of a school superintendent in the State of Florida; and

WHEREAS, the School Board shall appoint the authorized Superintendent of Schools for the District pursuant to Section 1001.50, Florida Statutes; and

WHEREAS, the Superintendent is willing to provide said services and will faithfully and fully comply with the duties and responsibilities of her office as outlined herein, as well as provide those services to the School Board as are requested by the School Board throughout the term of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth hereinafter, it is agreed as follows:

DEFINITIONS:

1. **Cause:** Any material breach of the Agreement; violation of any requirement or provision of Florida Statutes related to the legal duties

of the Superintendent, School Board policy or clearly established legal precedence binding on the Superintendent; a failure to perform the duties of the office; failure to follow the direction of the collective School Board acting in accordance with law; and/or any matter that would be a basis for termination for cause that would apply to other instructional personnel of the School District as specified in Section 1012.33 Florida Statutes.

2. **Disability:** Pursuant to Section X of this Agreement, the physician after performing a complete physical examination has given the opinion that the Superintendent is not physically capable of carrying out the duties of Superintendent.
3. **Misconduct:** Irrespective of whether the misconduct occurs at the workplace or during working hours, includes, but is not limited to, the following, which may not be construed in pari materia with each other:
 - (a) Conduct demonstrating conscious disregard of an employer's interests and found to be a deliberate violation or disregard of the reasonable standards of behavior which the employer expects of his or her employee.
 - (b) Carelessness or negligence to a degree or recurrence that manifests culpability or wrongful intent, or shows an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his or her employer.
 - (c) Chronic absenteeism or tardiness in deliberate violation of a known policy of the employer or one or more unapproved absences following a written reprimand or warning relating to more than one unapproved absence.
 - (d) A willful and deliberate violation of a standard or regulation of this state by an employee of an employer licensed or certified by this state, which violation would cause the employer to be sanctioned or have its license or certification suspended by this state.
 - (e) A violation of an employer's rule, unless the claimant can demonstrate that:
 1. He or she did not know, and could not reasonably know, of the rule's requirements;
 2. The rule is not lawful or not reasonably related to the job environment and performance; or
 3. The rule is not fairly or consistently enforced.
4. **Severance Pay:** Means the actual or constructive compensation, including salary, benefits, or perquisites, for employment services yet

to be rendered which is provided to an employee who has recently been or is about to be terminated. The term does not include compensation for:

- (a) Earned and accrued annual, sick, compensatory, or administrative leave;
- (b) Early retirement under provisions established in an actuarially funded pension plan subject to part VII of chapter 112; or
- (c) Any subsidy for the cost of a group insurance plan available to an employee upon normal or disability retirement that is by policy available to all employees of the unit of government pursuant to the unit's health insurance plan. This subparagraph may not be construed to limit the ability of a unit of government to reduce or eliminate such subsidies.

Does not apply if Superintendent is fired for misconduct as defined in F.S. 443.036(3).

May not exceed an amount greater than 20 weeks of compensation and is no less than 20 weeks of compensation.

I. Superintendent of the School District of Osceola County.

The School Board hereby appoints Melba Luciano as Superintendent of Schools for the School District of Osceola County, for the term of this Agreement.

II. Services and Duties.

The Superintendent shall use her best efforts and devote her full working time to provide those services and work required of the Superintendent by law, such additional duties as are prescribed by the School Board and the job description adopted by the School Board. The Superintendent shall fully, competently and completely perform the duties and obligations of the Superintendent pursuant to Sections 1001.49 through 1001.53, Florida Statutes, as amended, and other applicable laws.

The Superintendent shall at all times throughout the term of this Agreement maintain and keep current a valid certification in administration and supervision or

equivalent, as issued by the Florida Department of Education. The Superintendent shall notify the School Board immediately of any change in the status of such certification. Suspension, revocation, or lapse of such certification will be deemed a breach of this Agreement by the Superintendent and will release the School Board from all obligations under this Agreement.

III. Term of Agreement.

This Agreement for Superintendent duties begins July 1, 2014, and shall remain in full force and effect, continuously, until midnight, July 31, 2016, unless terminated sooner pursuant to this Agreement.

IV. Agreement Renewal.

The current Agreement is in effect through July 31, 2016 and is thereafter renewable in accordance with the terms and provisions hereinafter set out. On or before June 30, 2016, the School Board shall, at a duly convened public meeting, elect one of the following options:

A. The School Board may vote to renew the Superintendent's Agreement for an additional term beyond July 31, 2016; or

B. The School Board may vote to decline to extend the current Agreement beyond July 31, 2016; or

C. The School Board may do nothing regarding the term of the Agreement, in which case the term of the Agreement shall be automatically extended for an additional three years.

Thereafter, commencing with a meeting in June, 2016, if this Agreement is then in effect, and thereafter on an annual basis, on or before June 30 of each

succeeding year, so long as this Agreement shall remain in effect, the School Board shall meet in a duly convened public meeting and may elect one of the following options:

1. The School Board may do nothing regarding the Agreement, in which case the term of the Agreement will automatically be extended for an additional one (1) year beyond the ending date then existing prior to the automatic one year renewal; or
2. The School Board may vote to decline to extend the term of the Agreement, in which case the then existing last date of the term of the Agreement shall remain in effect; or
3. The School Board may vote to renew the Superintendent's Agreement for an additional term beyond the then existing last date of the term of the Agreement.

V. Termination of the Agreement.

A. School Board Release from the Agreement Without Cause.

Notwithstanding any other provision of this Agreement the School Board reserves the right at any time in its sole discretion and for any reason whatsoever, or for no reason, to terminate the Superintendent's employment. However, if the Superintendent is released from her Agreement and this Agreement is thereby terminated pursuant to this provision, without Cause, the Superintendent shall receive all compensation as provided in Section VI of this Agreement, subject to the limitation of Section 215.425(4), Florida Statutes.

The Superintendent agrees that the School Board shall have the sole and absolute discretion to decide upon such termination under this paragraph and that in the event of such termination, the Superintendent waives all rights to contest or challenge the School Board's decision and shall accept the payments provided in this paragraph in full satisfaction of the Board's obligations under this Agreement and in full release of any and all claims against the School Board under this Agreement. Nothing herein would prevent the School Board and Superintendent from negotiating a lump sum payment in lieu of the monthly payments provided for herein.

B. School Board Release from the Agreement For Cause.

The School Board shall act in accordance with the following procedures when terminating for Cause:

1. The School Board may terminate for Cause at any duly conducted meeting, provided however, that no action will be maintained to terminate the Superintendent for Cause without first giving the Superintendent 60 days prior written notice of the Cause and an opportunity for the Superintendent to cure such Cause by initiating corrective action in good faith regarding the Cause specified in such notice within said 60 day period of time.

2. However, the Superintendent shall not receive an opportunity to cure if the Cause is any act or matter that would be sufficient to terminate the employment of a member of the administrative or instructional staff under Section 1012.33, Florida Statutes.

3. If the School Board terminates the Superintendent for Cause, the Superintendent's sole legal remedy is an action in the court of appropriate jurisdiction and venue.

4. If the Superintendent is terminated for Cause and a court of appropriate jurisdiction fails to reverse that decision, the Superintendent shall not receive the salary and benefits provided for in Section V(A). However, if a court determines that the School Board did not properly terminate the Superintendent for Cause, the Parties hereby agree that such termination from employment will be deemed a termination without Cause pursuant to the provisions of Section V(A), and the Superintendent will be entitled to all of the compensation in accordance with the provisions of Section V(A), and no additional compensation of any nature will be paid.

5. If the Superintendent is terminated for Cause, the Superintendent is entitled only to pay in accordance with Section VI(I) and subject to the limitations imposed by Section 215.425(4), Florida Statutes.

6. If the Superintendent is terminated for Misconduct, Severance Pay is prohibited.

C. Superintendent Termination of Agreement. If the Superintendent decides her employment as Superintendent shall end, the Superintendent shall receive payment as for termination without Cause in Section V(A) in this Agreement. As a condition precedent to the right to receive these benefits, and prior to payment of these benefits, the Superintendent shall sign and deliver to the School Board a release of claims under this Agreement for any other employment rights that may

inure to her benefit. If the Superintendent does not provide 60 days written notice prior to the ending of her employment at her option, an amount equal to unpaid annual sick leave calculated at 70% of the daily rate of base salary paid for that fiscal year, earned prior to the last day of employment, will be forfeited by the Superintendent.

VI. Compensation.

For all services rendered by the Superintendent under this Agreement, the School Board shall pay and provide for the Superintendent the salary, deferred compensation, and other benefits described hereafter:

A. Base Salary. The Superintendent's salary shall be at the annual rate of \$185,000.00, which shall continue unless and until the salary is altered based on a provision in this Agreement or renegotiated by mutual consent of the parties.

For the remaining years that this Agreement is in effect, the Superintendent's salary will be determined as follows: The Superintendent shall receive an annual salary equal to the annual salary for the immediately preceding 12 month period, which annual salary shall be paid at the time and in the manner provided above. If the Superintendent receives an overall performance rating of satisfactory or greater on the evaluation which is to be performed by the School Board (on or about June 30 of each year of the Agreement), then she shall receive for the following fiscal year the same percentage wage increase, if any, on the same basis granted to other administrators of the District who are not eligible for a step increase during that fiscal year. However, in no event will the Superintendent's percentage wage increase exceed that received by classroom teachers. Further, in no event will the

Superintendent receive less in base salary in the second full year that she did in the first year of this Agreement.

B. Tax Sheltered Plan. In addition to the base salary provided in Section VI(A), and to the extent permitted by law, the School Board shall contribute yearly an amount equal to 15% of the then current base salary for a tax sheltered plan selected by the Superintendent. As required by the program selected, this contribution will be paid by the School Board in monthly increments.

C. Special Qualification Salary. In addition to the base salary provided in Section VI(A), the Superintendent shall receive an additional annual special qualification salary in the amount provided for elected Superintendents by Section 1001.47(4), Florida Statutes, so long as the Superintendent meets the certification requirements established by the Florida Department of Education, as set forth in that statutory section.

D. Chief Executive Officer Leadership Development Certificate Program. In addition to the base salary provided in subsection Section VI(A), the Superintendent shall receive an annual performance salary incentive in the amount provided for elected Superintendents pursuant to §1001.47(5), Florida Statutes, so long as the Superintendent has completed both phases of the program as described in that statutory section, and demonstrated successful performance as determined by the Florida Department of Education as set forth in that statutory subsection.

E. Other Expenses. Superintendent shall be reimbursed for her reasonable and necessary expenses incurred in the performance of her duties under this Agreement in accordance with applicable state law and School Board policies

and rules. Without limiting the general applicability of the preceding statement, examples of such reasonable and necessary expenses include expenses related to attendance at professional and official meetings, seminars, conventions and other meetings and functions that the Superintendent deems relevant to the performance of her duties under this Agreement, and, membership and professional organizations such as the American Association of School Administrators and the Florida Association of District School Superintendents, all of this being as approved by the School Board in its annual budget and to the extent permitted by law and policies of the School Board.

F. Civic and Community Activities Expenses. In addition to the expenses mentioned in Section VI(E), the School Board will annually budget a fund of \$2,000.00 that the Superintendent shall have available to expend for civic and community activities, civic club memberships that the Superintendent believes will benefit directly or indirectly the School District, and activities that promote good relations with the public, business community and other community and civic leaders. The Superintendent may use this fund by submitting a cost item for direct payment by the School District or by submitting a receipt for reimbursement.

G. Automobile Allowance and Travel Expenses. The School Board shall pay the Superintendent \$750.00 per month during the term of this Agreement which money shall be used by the Superintendent for her automobile expenses, which may include a lease or purchase payments due for such automobile, gas and maintenance of the automobile used for business, and such other expenses (if there is any excess over and above automobile expenses incurred) for matters including

entertainment, professional publications and other items which have a reasonable benefit either directly or indirectly to the overall mission of the School District and the performance of the Superintendent's duties. In addition, for actual usage of the automobile and other travel related to the performance of her duties, the Superintendent shall be reimbursed for out of county mileage, lodging, meals and such other expenses as Florida law permits and, paid in accordance with the state law guidelines for such travel for the reimbursement of public employees and officers, so long as the Superintendent shall comply with Florida law regarding such reimbursement for out of county travel.

H. Leave. Vacation and leave (including sick leave) will be the same as for other 12 month administrative employees of the School District. Any unused, accrued sick leave shall accumulate from year to year with no maximum limit.

I. Terminal Pay. Upon termination of employment the Superintendent shall receive in lump sum an amount equal to her per diem base salary for each employment year, using a 250 day work year, multiplied by her accrued vacation and sick days, such accrual as Superintendent, to commence on her first day of employment as Superintendent of Schools in Osceola County, in accordance with applicable state law as the same may be amended from time to time. All accrued sick days in excess of the maximum amounts allowed by law shall accumulate from year to year without limit. This lump sum payment will be in addition to any other amount payable to the Superintendent upon termination of employment under this Agreement. Nothing in this provision shall alter, diminish or waive any right to Terminal Pay the Superintendent may have with respect to her other periods of

employment in the School District of Osceola County before she became employed as Superintendent, as such rights may exist by operation of applicable law.

J. Disability or Death.

1. Termination for Disability. The School Board shall have the right to terminate the Superintendent's employment under this Agreement in the event of her disability to perform fully her duties. In such event, the School Board shall pay to the Superintendent, in full satisfaction of the School Board's obligations under this Agreement, a lump sum equivalent to Severance Pay, at the rate of pay then in effect, together with such benefits as have accrued as of the date of termination. Superintendent agrees that the School Board shall have the sole and absolute discretion to decide upon such termination for disability, and that in the event of such termination the Superintendent waives all right to contest or challenge the School Board's decision in that regard and will accept the benefits provided in this subsection in full satisfaction of the School Board's obligations under this Agreement in full release of any and all claims against the School Board under this Agreement.

2. Payment in the Event of Death. In the event of the death of the Superintendent during the term of this Agreement, the School Board shall pay to her surviving spouse, if any, or if the Superintendent does not have a surviving spouse, to the estate of the Superintendent, an equal amount to the portion of the Superintendent's salary to which she was entitled through the date of her death, including any amount to be paid as provided for in Section VI(I) concerning terminal pay, payable within one month of the date of her death.

K. Other Benefits Not Specifically Mentioned in this Agreement. The Superintendent is eligible to participate in other benefits that are afforded 12 month administrative employees of the School District, including but not limited to life insurance, participation in the health plan and participation in Florida Retirement System as the senior management class level. Health insurance coverage which is provided by the School Board to its other administrative employees will be paid for the Superintendent by the School Board. The Superintendent shall also be eligible to exercise any retirement option available to other administrators of the School District. If the Superintendent retires from the School District, the Superintendent shall retain the right, under the same eligibility requirements as other employees, to participate in such School District group insurance plans as are in effect as such time, which participation shall be at no expense to the School Board.

L. Budgetary Process. Nothing herein precludes the Superintendent from requesting that the School Board, through the budgetary process, include additional line items and/or authorization for expenditures as she shall deem reasonably necessary or appropriate for the operation of her office or the school system.

VII. Goals: Evaluations: Board Member Discussions and Board Action.

A. Goals and Objectives. Superintendent will recommend prescriptive goals and performance objectives to the School Board by July 31st of 2015 and July 31st of each year thereafter so long as this contract is in effect. These prescriptive goals and performance objectives are to be achieved or worked toward by the Superintendent and her staff. The School Board will promptly refer to the

Superintendent for her study and recommendation criticisms, complaints and suggestions called to the attention of the School Board or the attention of any individual board member.

B. Annual Evaluation. The Superintendent shall report to the School Board her progress in meeting goals and performance objectives established as provided under Section VII(A), and such matters as she deems relevant to her performance under this Agreement on a quarterly basis, on or before April 1st, August 1st, and December 1st of each year. Thereafter, the School Board shall review with the Superintendent her progress in meeting the goals and objectives and the working relationships among the Superintendent, School Board, faculty, staff, and community. Each individual member of the School Board may prepare and present a written or oral evaluation of the Superintendent's performance. Also the annual evaluation of the Superintendent's performance may include a formal evaluation procedure and form as may be mutually agreed upon by the School Board and the Superintendent, but if agreement on the form is not reached, then as established by the School Board unilaterally. Any evaluation, whether written or oral, which indicates that the performance of the Superintendent has not been satisfactory overall will include in writing the incidents or areas of unsatisfactory performance. The Superintendent shall be entitled to present a written response to any written unsatisfactory evaluations or evaluations which indicate a need for improvement.

C. Procedure for Discussion with School Board Members. Each School Board member may meet individually with Superintendent subject to applicable

case law and legislation relating to open government to discuss how the particular board member views the performance of the Superintendent and her progress in light of School Board policy decisions and objectives. Such meetings shall consist of full, frank and honest exchanges, but shall not involve the discussion of any matter that is prohibited by law to be discussed in such private meeting. Without limitation, the Superintendent will not discuss with any School Board member, individually, any matter related to how another School Board member views any topic nor shall any School Board member and the Superintendent act as a conduit for any other School Board member and the Superintendent act as a conduit for any other School Board member during the course of any such discussion. The sole purpose of these individual meetings would be for the individual School Board member to discuss with the Superintendent how the individual Board member views the performance of the Superintendent.

D. School Board Action. Following the opportunity for discussions as provided in Section VII(B) and Section VII(C) above, the School Board shall act not later than three weeks following the receipt of all FCAT scores and data, including school grades, or by July 31st of each year, whichever date occurs first, on the Superintendent's evaluation, including whether the Superintendent's performance meets expectations. If the School Board determines that the Superintendent's overall performance meets expectations, then the Superintendent shall be eligible for a pay increase pursuant to the terms set forth in Section VI.

E. Performance Pay Plan.

1. The School Board has the option to award the Superintendent a discretionary performance bonus. If the School Board determines that the Superintendent's performance meets or exceeds goals based on the Superintendent's evaluation and on the goals set by the School Board and the Superintendent, the School Board has the discretion to award the Superintendent an amount equal to \$2000.00 for each expectation.

2. If the School Board determines that the Superintendent's performance is unsatisfactory, then the School Board shall inform the Superintendent of specific goals and areas in which her performance must improve. This provision will not apply in the final year of this Agreement if the School Board has made the decision that the Agreement will not be extended beyond the expiration of this Agreement.

3. The Superintendent and the School Board, working together, shall establish a performance pay plan based on the goals established pursuant to paragraph VII(A). The performance pay plan shall be added to this Agreement and shall take the place of Section VII(E)(1).

VIII. Indemnification.

The School Board will defend, hold harmless and indemnify the Superintendent against any and all civil demands, claims, suit, actions, and legal proceedings brought against the Superintendent individually or in her capacity as agent or employee of the School Board that may arise while the Superintendent is acting within the scope of her employment and is not acting in bad faith or with

malicious purpose or in a manner exhibiting wanton or willful disregard of human rights, safety, or property; and further, criminal litigation shall not be included in this indemnity clause. This clause shall be interpreted and construed in a manner not inconsistent with Florida Statutes governing the indemnification of School Board employees. No School Board member shall be personally liable to the Superintendent for any cost, expense, fee or judgment arising from matters described in this paragraph.

IX. Applicability of School Board Policy and Florida Law.

The Superintendent shall be bound by all policies of the School Board and shall faithfully enforce, administer and abide by the same. Additionally, the Superintendent is bound by the Code of Ethics for Public Employees and Officers in Florida and all other laws of Florida that relate to the operation of the School District and the performance of her duties.

X. Annual Physical Examination.

Once each year during the term of employment under the Agreement, including any renewal, the School Board shall pay for a complete physical examination of the Superintendent by a primary care physician who is a participant of the School District's health network. The Superintendent agrees to undergo such an annual physical examination. The results of such examination shall be given to the School Board by the examining physician in the following form:

“In my opinion, based upon a complete physical examination of Melba Luciano, she is (is not) physically capable of carrying out the duties of Superintendent.”

(Signature of Physician)

XI. Superintendent/School Board Professional Development. In recognition of the value of effective teamwork among the Superintendent, the School Board and the Senior Executive Team (“Superintendent’s Cabinet”) the School Board and Superintendent agree to take part in mutual professional development sessions which shall be co-designed by the School Board and the Superintendent and which have specific outcomes to strengthen the working relationship among the School Board, the Superintendent and the Superintendent’s Cabinet to accomplish the core mission of the Osceola County School District. The Parties shall discuss and agree to the content and amount of hours for this annual professional development and what portion of the professional development sessions will be attended by the Superintendent’s Cabinet members.

XII. Severability.

If any of the provisions of this Agreement are held invalid it shall not affect the validity or enforceability of any other provision, and the invalid provision shall be deemed severed from the remainder of the Agreement, and the remainder of the Agreement shall be fully enforceable.

XIII. Amendments.

This Agreement embodies the entire Agreement between the Parties and all prior negotiations and understandings, whether written or oral, are deemed to be merged and integrated in this written Agreement. This Agreement may not be amended except by written Agreement duly adopted by the Parties in the manner provided by law.

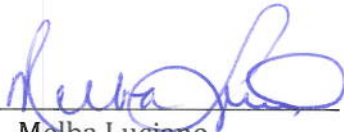
XIV. Construction.

This Agreement has been negotiated "at arm's length" by both Parties, each having the opportunity to be represented by legal counsel of its choice and to negotiate the form and substance of this Agreement. Therefore, this Agreement shall not be more strictly construed against either Party by reason of the fact that one Party may have drafted this Agreement.

WHEREUPON, the undersigned Parties do hereby enter and accept this Agreement on this the 30 day of June, 2014.

**THE SCHOOL BOARD OF OSCEOLA
COUNTY, FLORIDA**

By: _____


Melba Luciano
Superintendent of Schools
Osceola County

By: _____


Timothy Weisheyer, Chairman