

**AMENDED AND RESTATED EMPLOYMENT CONTRACT
BETWEEN BRENNAN ASPLEN, III AND THE
SCHOOL BOARD OF SARASOTA COUNTY, FLORIDA**

THIS EMPLOYMENT CONTRACT, made and entered into this 21st day of June, 2022, by and between the School Board of Sarasota County, Florida, hereinafter referred to as "Board" and Brennan Asplen, III, hereinafter referred to as "Superintendent".

WITNESSETH:

WHEREAS, the Superintendent has been employed as Superintendent by the Board since August 10, 2020; and

WHEREAS, the Superintendent's current contract with the Board provides options for the parties to consider on or before June 30, 2022.

NOW THEREFORE, pursuant to Sections 1001.461 and 1001.50, Florida Statutes, the Board and the Superintendent, for the consideration herein specified, agree:

1. Superintendent shall continue to serve as Superintendent of Schools for Sarasota County, Florida, subject to the terms and conditions of this Contract.

2. TERM. The term of this Contract shall be from July 1, 2022 through and including June 30, 2025, unless terminated earlier as provided in Section 10 (Termination) below. If this Agreement is not extended upon mutual agreement of the parties, or not terminated earlier as provided in Section 10, then it shall expire at 11:59 p.m., June 30, 2025. The anniversary date of this Contract shall be July 1 of any year. Each time period from July 1 to June 30 shall be deemed a "Contract Year".

RENEWAL OPTION. On or before June 30, 2024, the Superintendent and the Board shall have the right to exercise one of the following options:

- A. The Board may, by majority vote, extend the Contract for an additional year or through June 30, 2026.
- B. The Board may omit taking any action on the Contract renewal and the Contract will expire by its own terms on June 30, 2025.
- C. The Superintendent may request that the Board not consider extending the Contract. In such case, the Contract will expire by its own terms on June 30, 2025.

In the event the Contract is extended pursuant to subsection A above in 2024 or any succeeding year, the renewal options shall be repeated on or before June 30th of the next year.

3. RESPONSIBILITIES OF SUPERINTENDENT.

A. Duties. The Superintendent shall perform his duties in accordance with Federal law, Florida Statutes, State Board of Education Rules and Board policy, and in strict accordance with any applicable ethical standards. The Superintendent shall attend Board meetings, shall make recommendations to the Board as appropriate, and shall serve as Chief Executive Officer for the Board. The Superintendent shall assign the administrative and supervisory staff in a manner which, in his judgment, best serves the public schools of Sarasota County, Florida. The responsibility for selection or promotion of personnel shall be vested in the Superintendent and his staff, subject to the approval of the Board as provided in Section 1012.22, Florida Statutes.

B. Outside Activities. The Superintendent shall devote his time, attention and energies to the affairs of the school district. The Superintendent may engage in professional activities which do not impair the performance of his duties as stated above. The Superintendent shall receive up to five (5) days of professional leave per year for such activities.

C. Absence from the District. The Superintendent shall advise the Board of any time when the Superintendent will be absent from the school district for a period of more than two (2) working days.

4. RESPONSIBILITIES OF THE BOARD. The Board shall perform its duties in accordance with Federal law, Florida Statutes, State Board of Education Rules and Board policy. The Board, as well as individual Board members, shall refer concerns and complaints to the Superintendent. Individual Board members have no authority to take action or direct the Superintendent except with express authorization by majority vote of the Board taken during a duly-constituted public meeting. To the extent the Superintendent has any concerns or complaints involving any individual Board member(s), the Superintendent shall report the same to the Board Chair and Board counsel, after which the Board shall review and address, if necessary, any such concerns or complaints.

5. PROFESSIONAL GROWTH OF SUPERINTENDENT.

A. Seminars and Conferences. The Board encourages the continuing professional growth of the Superintendent through participation in:

- (1) Activities conducted or sponsored by local, state and national school administrator and school board associations, including but not limited to Florida School Boards Association (FSBA), Florida Association of District School Superintendents (FADSS), and the Florida School Board Insurance Trust (FSBIT);
- (2) Seminars and courses offered by public or private educational institutions; and
- (3) Conferences which may improve the Superintendent's capacity to perform his professional responsibilities.

B. Meeting Attendance: Line-of-duty Leave and Travel Expense Reimbursement. The Superintendent may take up to ten (10) paid work days per year of line-of-duty leave to attend such meetings, and the Superintendent shall be eligible for travel expense reimbursement outside of the Sarasota County in accordance with Section 112.061, Florida Statutes. The Board, in its discretion, shall approve the Superintendent's leave request for said professional growth activities which exceed three (3) consecutive work days in length. The Superintendent may take additional paid line-of-duty leave days if said leave is taken for the purpose of conducting business for the Board.

C. Membership Fees. The Board shall pay, on behalf of the Superintendent, the annual membership dues for the American Association of School Administrators, the Florida Association of School Administrators, Florida Association of District School Superintendents, appropriate community organizations, and similar organizations, as approved by the Board, membership in which will contribute to the performance of his duties.

D. Reimbursement. The Board shall pay, on behalf of the Superintendent, all sums eligible for reimbursement under Section 112.061, Florida Statutes.

6. COMPENSATION. Retroactive to July 1, 2021, for all services rendered by the Superintendent under this Contract, the Board shall pay the Superintendent a base salary of Two Hundred Twenty-Seven Thousand and 00/100 Dollars (\$227,000.00) per year ("Base Salary").

A. Pay Increases. For the fiscal year commencing July 1, 2022, the Superintendent shall receive a pay increase equal to the increase of cabinet level District Administrators. Said increase shall be made retroactive to July 1st of the fiscal year in which the bargaining process is commenced and shall be calculated in accordance with past practices.

The Board may, at its sole discretion, grant additional pay increases at any time due to the Board's assessment of current conditions or any other factors bearing on the Superintendent's performance and compensation.

B. Automobile Expense. The Board will pay to the Superintendent a supplement of Five Hundred and 00/100 Dollars (\$500.00) per month which the Superintendent will use to provide himself with the use of an automobile and all expenses relating thereto. The Superintendent will not receive any reimbursement/mileage for in county travel. Out of county travel will be reimbursed in the same manner as any other employee.

C. Miscellaneous Business Expense. In recognition that the Superintendent is required, in the performance of his duties to travel extensively, attend meetings and conferences, fulfill speaking engagements and otherwise perform functions that involve unreimbursed expenses, the Board shall pay to the Superintendent a supplement of Four Hundred and 00/100 Dollars (\$400.00) per month in recognition of unreimbursed expenses incurred by him in the performance of his duties.

D. **Performance Pay/Annual Performance Goals.** In addition to the Base Salary provided in Section 6 above, beginning in the Contract Year starting on July 1, 2022 and in each subsequent Contract Year this Contract is in effect, the Board shall commit an additional \$15,000.00 which the Superintendent shall be eligible to receive as Performance Pay. On or before June 30, 2022, the Board shall set goal(s) for the Superintendent and/or Board to complete or perform during the 2022-2023 Contract Year and follow the same process for each subsequent Contract Year thereafter ("Performance Pay Process"). The Board shall consult with the Superintendent about the establishment of these goals but will retain the absolute discretion to establish both the goals and the amount or percentage of the Performance Pay that the Superintendent may earn by the achieving of a particular goal. The goal(s) and the amount of Performance Pay for the achieving of any particular goal shall be established by a majority vote of the members of the Board. This procedure for goal setting shall be completed by the Board on or before June 30th of each Contract Year to establish Performance Pay goals for the next Contract Year. The process for evaluating the Superintendent's performance and the final Board decision on the Performance Pay to be awarded to Superintendent for the Contract Year that ended on June 30th of the prior Contract Year shall be completed by October 1st (i.e., within ninety (90) days of the end of the prior Contract Year). Any failure by the Board to commence this Performance Pay Process for any Contract Year shall not be deemed a waiver of the Superintendent's right to this process and any Performance Pay. Any Performance Pay received by the Superintendent will not become part of the Superintendent's Base Salary.

E. **Deferred Benefit.** During each year that this Contract is in effect, the Board shall contribute the sum of the maximum amount allowed by the IRS, currently \$20,500.00, on behalf of the Superintendent to a retirement plan qualified under Section 403-B of the IRS code selected by the Superintendent.

F. **Florida Retirement System.** The Superintendent shall be entitled to participate in the Senior Management Category of the Florida Retirement System subject to then applicable laws and rules of the category and system.

G. **Furlough Days.** In the event that the Board or Superintendent imposes one or more mandatory furlough days on Board administrative staff on 251-day employment contracts, the Superintendent shall also be subject to such imposition for a like number of days.

H. **Statutory Compensation.** Superintendent shall be entitled to receive any and all compensation for which he is eligible under Florida Statutes, including but not limited to certification-related incentive pay.

7. EMPLOYEE BENEFITS.

A. **Vacations.** As of the effective date, the Superintendent shall be entitled to two (2) days of vacation for each month of service under this Contract. If the aggregate number

of days exceeds sixty (60), the cash value of all such excess days may, at the Superintendent's option be paid to the Superintendent on June 30th of each fiscal year. The Superintendent shall be entitled, at his election, to use or be paid for all previously accrued vacation leave upon resignation or termination at his pay rate at the time of termination.

B. Sick Leave. As of the effective date, the Superintendent shall be entitled to one (1) day of sick leave per each full month of employment. The Superintendent shall be entitled to become a member of the District sick leave pool. The Superintendent, at his discretion, may use any or all previously accrued sick leave days as he sees fit. Upon resignation or termination, any unused days shall be paid out in full at the rate of pay in effect on that date.

C. Personal leave. The Superintendent shall be granted up to eight (8) personal leave days each year. These personal leave days shall not be counted as, nor deducted from, the Superintendent's available sick leave.

D. Health Insurance. The Superintendent shall have the option of participating in any health insurance plan offered to the employees of the school district, provided he pays the premium for any health insurance plan selected less any Board contributions or credits available to school district employees. Except as provided by law, the Superintendent shall be treated as any other district employee for the purposes of any preexisting condition requirements. Upon retirement, the Superintendent and his spouse shall receive the same Board contribution toward insurance premiums as provided to District employees until each are respectively of Medicare eligible age. The Superintendent must elect such participation within thirty (30) days after his official date of retirement.

E. Life Insurance. The Board shall provide term life insurance coverage at its sole expense for the Superintendent in the amount of Fifty Thousand and 00/100 Dollars (\$50,000.00).

F. Disability Insurance. The Superintendent shall be entitled to the same disability insurance coverage provided to school district employees at the Board's sole expense.

G. Medical Examination. The Superintendent agrees to have a comprehensive medical examination once annually, if requested by the Board. The cost of such medical report and examination being borne by the Board. The Superintendent shall furnish to each member of the Board a statement from the physician who rendered such physical examination, in substantially the following words:

"I have conducted a complete physical examination of Brennan Asplen, III on _____. In my opinion, he is capable of carrying out the duties of Superintendent of Schools of Sarasota County.

_____, M.D."

The Superintendent need not furnish to the Board members or Board a copy of the medical examination report made by the physician and furnished to the Superintendent, the above statement being sufficient compliance with the Board's objective in understanding the physical well-being of the Superintendent to perform his duties. Further, the Board shall have the right at anytime during the term of this Contract to require that the Superintendent submit to a psychiatric examination by at least two (2) qualified psychiatrists selected by the Board, and the Superintendent agrees to submit to such examination and to allow the reports of said psychiatrists to be furnished to the Board. The cost of such examination shall be borne by the Board.

H. Death. If the Superintendent dies during the term of his employment, the Board shall pay to the spouse of the Superintendent if she survives him, or the estate of the Superintendent, as the case may be, the compensation which would otherwise be payable to the Superintendent for a period of one month, plus any severance and accrued but unused sick leave and vacation/annual leave. Such payments shall be in addition to any and all other death benefits for which the Superintendent is qualified and entitled to receive.

8. PROFESSIONAL LIABILITY.

A. Defense and Hold Harmless. The Board agrees that it shall defend, hold harmless and indemnify the Superintendent from any and all demands, claims, suits, actions and legal proceedings brought against the Superintendent in his individual capacity, or in his official capacity as agent and employee of the Board, provided the incident arose while the Superintendent was acting within the scope of his employment and excluding any matters resulting from criminal acts or willful and wanton misconduct of the Superintendent. Notwithstanding the foregoing, individual Board members shall in no event be personally liable for indemnifying the Superintendent against such demands, claims, suits, actions and legal proceedings. If conflict exists concerning the defense to such a claim between the legal position of the Board, the Superintendent may engage independent counsel, in which event the Board shall reimburse the Superintendent for the reasonable costs of legal representation.

B. Adverse Matters. The Board may, but is not required to pay any costs of the Superintendent's legal representation in the event the Board and the Superintendent are adverse parties in any termination proceedings.

9. PERFORMANCE ASSESSMENT.

A. Term. The Board shall assess the performance of the Superintendent annually.

B. Criteria. The criteria for the assessment shall be based on the Superintendent's performance metrics agreed upon by both the Board and the Superintendent, as per the attached Exhibit "A". The criteria shall include assessment of the performance of the duties of the Superintendent as referenced in this Contract, the Superintendent's personal goals, and the goals set forth in the school district strategic plan. For subsequent contract years, any additional criteria shall be established by June 30th and with any such additional criteria being appended to this Contract as Amended Exhibit A.

C. Reporting. The Superintendent shall be responsible for reporting to the Board any school district strategic plan goals for which satisfactory progress was not made, in addition to documentation of District achievement.

10. TERMINATION OF CONTRACT. This Contract may be terminated by:

A. Retirement of the Superintendent pursuant to Florida law.

B. Resignation of the Superintendent. The Superintendent may resign his position by providing at least thirty (30) days advance written notice of resignation to the Board.

C. Disability of the Superintendent. Should the Superintendent be unable to perform the essential functions of this position due to physical or mental disability and said disability exists for a period of more than six (6) months, the Board may, at its sole discretion, cease making periodic salary payments hereunder, or make partial salary payments after such period. If such disability continues for more than six (6) months, or if such disability is permanent, irreparable or of such a nature as to make performance of the Superintendent's duties impossible, the Board, at its option, taking into account all relevant factors including the medical likelihood of the Superintendent's recovery, may leave this Contract in place or terminate this Contract and, in that event, the respective duties, rights and obligations of each party shall terminate, provided the Superintendent has received not less than six (6) months salary pursuant to this provision. If a question exists concerning the capacity of the Superintendent to perform the essential functions of his position, the Board may require the Superintendent to submit to a physical or mental examination by a physician selected by the Board. The examination shall be done at the expense of the Board. The Superintendent shall be entitled to receive a full, confidential report from the examining physician or other qualified medical professional. The physician shall report to the Board only whether the Superintendent has a continuing disability which prohibits or impairs him from performing one or more of the essential functions of his position, said functions defined pursuant to Section 1001.51, Florida Statutes.

D. Termination Without Cause. Notwithstanding any other provision of this Contract, the Board may remove the Superintendent from his position during the term of this Contract, without cause, upon an affirmative vote of the Board, so long as at least thirty (30) days advance written notice of an intention to terminate without cause is provided to the Superintendent. Superintendent expressly waives any right he might otherwise have to object to

the reasons for his termination, or to a hearing in connection with such termination of his employment.

E. Termination by Mutual Agreement. Both the Superintendent and Board may agree to terminate this Contract upon mutual agreement during a duly-noticed public meeting.

F. Severance Compensation. In the event the Board exercises its discretion to terminate Superintendent's employment without cause pursuant to Section 10(D) above, the Board agrees to pay Superintendent a lump sum equivalent to the Superintendent's Base Salary and benefits for twenty (20) weeks at the rate then in effect or the maximum allowed by Section 215.425, Florida Statutes, whichever is less. Superintendent will also be entitled to receive payment for any accrued vacation leave, annual leave and sick leave to which he is due as of the date of his termination. Superintendent agrees that the payments described in this Section shall be the only compensation to which he is entitled as a result of his employment being terminated without cause.

G. Termination for Cause. Superintendent may be dismissed for cause from his employment for conduct which is prejudicial to the Board or the School District including, without limitation, willful neglect of duty, material breach of this Contract, violation of the Code of Ethics applicable to members of the teaching profession in Florida, violation of the Code of Ethics prescribed by Chapter 112, Florida Statutes (as amended), conduct precluded by Rules 6B-1.001, 6B-1.006 and 6B-4.009, Florida Administrative Code (as amended), or for "just cause" as determined by Section 1012.33, Florida Statutes (as amended). Notice of termination for cause shall be given in writing and Superintendent shall be entitled to request a hearing to contest his termination. The Superintendent must request a hearing within ten (10) calendar days of the notice of termination or the right to a hearing is waived. Any such hearing will proceed in accordance with Chapter 120, Florida Statutes. If terminated for cause, Superintendent shall only be entitled to payment for any earned, accrued and unused vacation leave, annual leave and accrued and unused sick leave and shall be ineligible for any other compensation or benefits including but not limited to any severance compensation. If it is determined pursuant to the Chapter 120 hearing described above that the termination was without cause, then the provisions of Sections 10(D) and 10(F) shall apply.

11. WAIVER. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Contract and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Contract shall not be deemed a waiver of such provision or a modification of this Contract. A waiver of any breach of a provision of this Contract shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Contract.

12. **LAWS OF FLORIDA.** This Contract shall be applied and in all respects interpreted according to the laws of the State of Florida. Sole and exclusive jurisdiction for any action arising out of this Contract shall be in the County or Circuit Court for the Twelfth Judicial Circuit in and for Sarasota County, or the United States District Court, Middle District of Florida, Tampa Division, which encompasses Sarasota County.

13. **NOTICES.** When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain until it is changed by written notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective places for giving notice:

To the Board: School Board of Sarasota County, Florida
 Attn: School Board Chair
 1960 Landings Blvd.
 Sarasota, FL 34231

With a copy to: Daniel DeLeo, Esq., General Counsel
 Shumaker, Loop & Kendrick, LLP
 240 S. Pineapple Ave., 10th Floor
 Sarasota, FL 34236

To Superintendent: Dr. Brennan Asplen, Superintendent of Schools
 1960 Landings Blvd.
 Sarasota, FL 34231

14. **CONTRACT PREPARATION.** The parties acknowledge that they have been advised and have had the opportunity to obtain whatever advice and counsel as was necessary for each of them to form a full and complete understanding of all rights and obligations herein. Shumaker, Loop & Kendrick, LLP is legal counsel representing the School Board and has initially drafted this Contract. As each party has had the opportunity to review and negotiate this Contract, the parties agree that the preparation of this Contract has been their joint effort. This Contract contains the parties' mutual expressions and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

15. **ENTIRE AGREEMENT.** This instrument contains the entire Contract between the parties. Except as otherwise indicated above, it may not be modified other than by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, extension or discharge is sought.

16. SAVINGS CLAUSE. If during the term of the Contract it is found that a specific clause is illegal under Federal or State law, the remainder of the contract shall not be affected, but shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Contract upon the date indicated.

THE SCHOOL BOARD OF SARASOTA,
FLORIDA

By: Jane Goodwin
Jane Goodwin, Chair

Brennan Asplen, III
Brennan Asplen, III, Superintendent

APPROVED AS TO FORM:

By: Daniel J. DeLeo
DANIEL J. DELEO, ESQ.
School Board Attorney