

STATE OF GEORGIA

COUNTY OF DEKALB

CONTRACT OF EMPLOYMENT
SUPERINTENDENT OF SCHOOLS

THIS AGREEMENT is made effective as of the 14th day of November, 2017, by and between DAVID DUDE, Ph.D. (hereinafter referred to as "Superintendent"), and the BOARD OF EDUCATION OF THE CITY OF DECATUR (hereinafter referred to as the "Board" and/or "Employer") pursuant to Article VIII, Section V, Paragraph III of the Constitution of Georgia and O.C.G.A. § 20-2-101, as amended, (hereinafter collectively referred to as the "Parties").

WHEREAS, The Board wishes to employ Superintendent as its Superintendent of the City Schools of Decatur ("School System") and enter into an employment agreement; and

WHEREAS, Superintendent is desirous of being employed as the Superintendent of the School System;

NOW, THEREFORE, for and in consideration of the promises, mutual benefits and covenants flowing between them, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Term of Employment

1.1 The Board hereby employs Superintendent as the Superintendent of the School System, and Superintendent hereby accepts employment with the Board as Superintendent of the School System, commencing on July 1, 2018, and expiring on June 30, 2021, unless sooner

terminated in accordance with the provisions of Section 5. The terms of this Agreement shall be effective as of July 1, 2018.

1.2 Nothing contained in Paragraph 1.1 above shall be deemed to limit in any way the Board's authority to terminate Superintendent as provided for in this Agreement or limit the authority of Superintendent to resign voluntarily, provided that such resignation shall be in accordance with the terms of this Agreement.

2. Duties of Employment

2.1 In addition to any other warranties and representations made in this Agreement, Superintendent hereby represents and warrants that he is of good moral character, and is currently certified by the Professional Standards Commission.

2.2 For the term of this Agreement and for any renewal periods, Superintendent shall be certified and classified by the Professional Standards Commission and shall hold and produce upon request a valid certificate issued by the State of Georgia.

2.3 Superintendent shall perform all of the duties of the Superintendent of the School System as defined by Georgia law currently in effect or as amended from time to time.

2.4 In addition to the duties specified above, Superintendent shall have charge of the administration of the School System under the direction of the Board and shall contribute that amount of his productive time, energies, abilities and attention to the activities of the Board during the term of this Agreement as will be necessary and sufficient to fulfill properly his duties and responsibilities as Superintendent.

2.5 In his capacity as superintendent, Superintendent shall constitute the medium of communication between the State School Superintendent and local school officers and officials and shall be the executive officer of the Board.

2.6 Superintendent shall be the agent of the Board in procuring such school equipment and materials as it may order; shall ensure that the prescribed textbooks are used by students; shall verify all accounts before an application is made to the Board for an order for payment; and shall keep a record of all official acts, which, together with all the books, papers and property appertaining to the office, shall be kept safe and secure so that they may be turned over to his successor in good and proper order at the appropriate time.

2.7 It shall further be his duty to enforce all applicable State, Federal and local laws and the rules and regulations of the State School Superintendent, State School Board and the Board, which are not in conflict with State or Federal laws; and to visit every school within the School System to become familiar with the studies taught in the schools, observe what advancement is being made by the students, counsel with the faculty, and otherwise aid and assist in the advancement of public education.

2.8 Superintendent shall be the executive officer and secretary of the Board and shall attend and participate in all Board meetings providing administrative recommendations on each item of business brought before the Board, except where his own employment, performance, or salary are under consideration.

2.9 Superintendent shall assume responsibility for the overall financial planning of the School System, for the preparation of the annual budget, and, in accordance with the laws of the State of Georgia, for submitting the budget to the Board for review and approval.

2.10 Superintendent shall supervise, direct and control all employees of the School System.

2.11 Superintendent shall act as liaison between the School System and the community and shall be responsible for a program of public relations and for creating and maintaining a

wholesome and cooperative working relationship between the School System and the community.

2.12 Superintendent shall furnish to the State or Federal government all reports and information which may be required from time to time.

2.13 Superintendent shall stay current on educational trends and developments by reading, visiting other systems and participating in appropriate professional organizations, seminars and conferences.

2.14 Superintendent shall promptly notify the Board of issues which could result in potential financial or reputational exposure to the district.

2.15 Superintendent shall use his best efforts to ensure that information presented to the Board from staff will be accurate and complete.

2.16 Superintendent agrees that any and all intellectual property, including but not limited to, all ideas, concepts, themes, computer programs, parts of computer programs, documentation, literature, or illustrations, conceived, developed, written, or contributed by Superintendent, either individually or in collaboration with others, pursuant to this Agreement or during the scope of his duties hereunder, constitute "works for hire" and shall belong to and be the sole property of the School System.

Notwithstanding the above, speaking engagements, lectures, and publishing of writings by the Superintendent is permitted; however, Superintendent agrees to keep the Board informed regarding such activities. The Superintendent shall be entitled to all copyrights, if any, from such undertakings that are undertaken or prepared entirely outside of the scope of his duties under this Agreement. This paragraph is not intended to apply to attendance at professional meetings,

participation in professional organizations or pursuit of further education or professional development by the Superintendent.

3. Compensation

3.1 As compensation, the Board shall pay Superintendent an annual base salary of One Hundred Ninety-Nine Thousand Dollars (\$199,000.00 USD) for services rendered for the 2018-2019 school year (hereinafter referred to as "base salary"). Superintendent's annual base salary for the 2019-2020 school year shall be Two Hundred Nine Thousand Dollars (\$209,000.00). Superintendent's annual base salary for the 2020-2021 school year shall be Two Hundred Nineteen Thousand Dollars (\$219,000.00). Base salary is to be paid in twelve (12) equal monthly installments except as may be prorated to account for partial school years.

For each school year covered by this agreement, the Superintendent shall be eligible for an annual performance bonus of up to Twenty Thousand Dollars (\$20,000), in accordance with the terms contained in Section 6 of this Agreement.

3.2 The Superintendent and the Board shall set the performance objectives as a part of the annual setting of objectives for the School System. As soon as possible after the first of January, but prior to the end of each March, the Board and the Superintendent shall meet to establish short and long-term goals for the School System. The Superintendent shall be responsible for making the arrangements for such meetings.

4. Other Benefits, Expenses and Travel

4.1 The Board shall pay to Superintendent an allowance of One Thousand Five Hundred Dollars (\$1,500.00 USD) per month to cover or offset routine and reasonable expenses arising out of Superintendent's performance of duties hereunder, including, but not limited to,

civic dues, automobile operation expenses incurred while performing the Superintendent's normal duties and responsibilities under this Agreement, and automobile liability insurance, which, at a minimum, must be at least a \$100,000/\$300,000/\$50,000 (property damage/ personal injury per incident/ personal injury per person) automobile liability insurance policy. Such policy must be maintained by the Superintendent who shall provide a copy of his automobile liability insurance card to be maintained on file with the Executive Director of Finance for the School System. In any event and inclusive of the allowance provided for in this provision, the Superintendent shall be responsible for handling all such civic dues and expenses associated with the operation of his automobile.

Other than any applicable customary employer taxes and withholding, tax obligations, if any, that may arise related to this monthly allowance shall be the responsibility of the Superintendent.

In addition, the Board shall directly pay on behalf of or reimburse the Superintendent for any and all additional out-of-pocket expenses for travel expenses, including lodging, meals, and mileage outside of the Metropolitan Atlanta area at the applicable federal mileage reimbursement rate, in connection with his duties as superintendent. Superintendent shall provide receipts for such expenses.

4.2 Superintendent shall earn forty-five (45) days of paid vacation for each contract year that this agreement is in effect ("Annual Vacation Days"). All Annual Vacation Days shall be deemed fully earned at the beginning of the contract year; provided however that in the event that Superintendent resigns or is terminated before the end of the contract year (the "Termination Year"), the Annual Vacation for the Termination Year will revert to a proportionate accrual basis, meaning Superintendent shall only receive that amount of Annual Vacation that is

proportionate to the amount of time he was employed during the Termination Year. For example, if Superintendent resigns or is terminated six months into a contract year, he will only be deemed to have earned one-half of his Annual Vacation Days. Superintendent shall be entitled to cash out up to thirty (30) days of vacation pay each contract year. No vacation days may be carried over to the following contract year. Superintendent shall maintain a record of and keep the Board informed regarding vacation time used and he shall also be responsible for identifying the temporary superintendent in-charge in his absence, including defining the scope of the temporary superintendent-in charge's decision making responsibilities as well as how to contact the Superintendent in the event of an emergency.

For purposes of the Agreement and any amendments hereto, "prevailing daily rate" is defined as the Superintendent's daily rate calculated by dividing the Superintendent's annual salary in the given year by 251 days (i.e., 365 days a year minus 104 weekend days, minus 10 federal holidays).

4.3 Superintendent shall earn thirty (30) days of sick leave for each school year that this Agreement is in effect on a pro rata basis. Up to thirty (30) accrued and unused sick leave days may be carried forward to the next school year for so long as this Agreement is in effect. Inclusive of sick leave rolled over from previous contracts between the Superintendent and the Board, Superintendent shall be allowed to accumulate a total of one hundred twenty-five (125) days of sick leave. At the time of expiration or termination of this Agreement, as defined in Section 5 hereof, Superintendent shall be paid for all accrued but unused sick days, up to the maximum accrual of one hundred twenty five (125) days, at the prevailing daily rate in effect at the time it is paid out. Superintendent shall maintain a record of, and keep the Board informed of, sick days used. The foregoing notwithstanding, the 125 maximum sick day accrual cap shall not

apply, and there shall be no cap on number of sick days that may accrue for purposes of determining years of service for retirement benefits, or for determining other employment benefits that may be available to the Superintendent.

4.4 Superintendent shall receive employment benefits, including life insurance, long term disability, family medical and hospital insurance, holidays and retirement benefits that the Board offers to the other employees of the School System, including a choice of family medical and hospital plans from among those offered by the Board, during the term of this Agreement so long as they are not in conflict with the terms hereof.

The Board shall pay any required employer contributions of the above named benefits during the term of this agreement and shall also pay any required employee contributions of the above named benefits during the term of this agreement.

Should any particular benefits vary between administrators and other employees of the School System, Superintendent shall receive those benefits offered to administrators of the School System.

During the term of this Agreement, in the event that the Superintendent elects to purchase life insurance through the benefit plan available to Georgia public school employees and/or if the Superintendent elects to purchase life insurance not offered through the benefits plan available to Georgia public school employees, then the Board shall pay directly to the insurer or may reimburse the Superintendent upon receipt of indicia of payment, total annual premium payments for a life insurance policy with a face value (i.e., death benefit) not to exceed four times the Superintendent's annual base salary. By way of illustration only, if the Superintendent's annual base salary is \$190,000.00, then the Board will pay the annual premium(s) for life insurance policy(s) with a face value up to four times the annual base salary (i.e., $4 \times \$190,000.00 =$

\$760,000.00). If the face value of the life insurance purchased by the Superintendent in the aggregate exceeds four times his annual base salary, then the Executive Director of Finance may prorate the annual life insurance premium in accordance with this paragraph and pay that portion of the premium that the Board has agreed to pay pursuant to this paragraph. Notwithstanding the foregoing, in no event shall the life insurance premium payments made by the Board hereunder exceed the annual total of Four Thousand Eight Hundred Dollars (\$4,800.00). In the event that the Superintendent has already paid the premiums for the life insurance coverage provided for in this paragraph, the Board shall reimburse him for same upon receipt of indicia of payment. Notwithstanding anything to contrary herein, the Board shall only be responsible for paying reasonable premiums, as determined in the Board's discretion. The maximum total premium payments provided for hereunder are inclusive of both life insurance coverage purchased through the benefit program available to Georgia public school employees and any private coverage the Superintendent purchases.

During the term of this Agreement, in the event that the Superintendent elects to purchase long-term disability insurance through the benefit plan available to Georgia public school employees and/or if the Superintendent elects to purchase long-term disability insurance not offered through the benefits plan available to Georgia public school employees, then the Board shall pay directly to the insurer or may reimburse the Superintendent upon receipt of indicia of payment the total annual premium payments for a long-term disability insurance policy up to 66.67% of Superintendent's current base salary. The Board shall pay Superintendent his regular annual salary from the date of the disabling event up to the day that payments commence under the long-term disability policy, except that in no event shall the payment of annual salary after the occurrence of a qualifying disabling event continue for a period longer than six (6) months

from the date of the disabling event. Notwithstanding anything to contrary herein, the Board shall only be responsible for paying reasonable premiums, as determined in the Board's discretion.

The Board shall pay any required employer contribution to Superintendent's retirement plan during the term of this Agreement and shall also pay the required employee contribution to Superintendent's retirement plan during the term of this Agreement.

The Superintendent will be eligible to participate in a deferred compensation plan through payroll deduction as provided by law. In addition, the Board shall contribute to a Supplemental Retirement Plan for the benefit of the Superintendent an amount equal to One Percent (1%) of the base salary for the first year of this Agreement, and shall match the Superintendent's contributions to said plan in an amount not to exceed One Percent (1%) of the base salary for the first year of this Agreement; the Board shall contribute Three Percent (3%) of the base salary to said plan for the second year of this Agreement, and shall match the Superintendent's contributions to said plan in an amount not to exceed Three Percent (3%) of the base salary for the second year of this Agreement; and the Board shall contribute Five Percent (5%) of the base salary to said plan for the third year of this Agreement, and shall match the Superintendent's contributions to said plan in an amount not to exceed Five Percent (5%) of the base salary for the third year of this Agreement. The Board shall contribute to the Supplemental Retirement Plan on or before the tenth (10th) business day following the start of each year during the term of this Contract. The contributions to the Supplemental Retirement Plan and earnings thereon shall at all times be fully vested with the Superintendent. The Supplemental Retirement Plan shall be a plan established under Section 403(b) of the Internal Revenue Code (hereinafter referred to as "Code"). The 403(b) plan shall be established as employer paid and the

Superintendent shall have no right to receive such contributions in cash. The 403(b) plan shall be established under a written plan document that meets the requirements of the Code and such document is hereby incorporated herein by reference. The funds for the 403(b) plan shall each be invested as determined solely by the Superintendent in such investment vehicles as are allowable under the Code for the applicable type of plan.

Notwithstanding any other provision of this Agreement, it is understood and agreed that with regard to any benefit payments of whatever nature made by the Board on behalf of the Superintendent and that are paid on an annual basis, the Superintendent shall reimburse the Board in the event that the Superintendent's employment is terminated either by the Board or by the Superintendent prior to the expiration of the one year period covered by such premium(s) or payment(s). By way of example only, in the event that the Board pays an annual Supplemental Retirement Plan payment and the Superintendent's employment is terminated prior to the expiration of the one year period, then the Superintendent shall reimburse the Board the pro rata amount for the unexpired months remaining in the one year payment term.

4.5 No party to this Agreement has made any representation or agreement, express or implied, as to the tax consequences of the transactions contemplated by this Agreement or the tax consequences of any action pursuant to or arising out of this Agreement. Each party agrees to be responsible for any tax consequences to that party as a result of or arising out of this Agreement.

5. Termination and Suspension

5.1 This Agreement may be terminated in any of the following ways:

- (a) By mutual agreement of the Parties.
- (b) Retirement of Superintendent.
- (c) The death or disability of Superintendent.

In the event of Superintendent's death, this Agreement shall terminate immediately.

The Board may terminate this Agreement by written notice to Superintendent at any time after Superintendent has exhausted any leave as may be available by law or under this Agreement and has been absent from his employment for whatever cause, for an additional period of thirty (30) days during the term of this Agreement. All obligations of the Board shall cease upon such termination.

If a question exists concerning the ability of Superintendent to return to his duties, the Board may require Superintendent to submit to a medical examination, to be performed by a doctor licensed to practice medicine. The Board and Superintendent shall mutually agree on the physician to perform the examination. The examination shall be performed at the Board's expense. The physician's report shall be limited to the issue of whether Superintendent has a continuing disability that prohibits him from performing the duties of the Superintendent.

(d) The discharge of Superintendent by the Board for Cause.

"Cause," as used herein with reference to the discharge of Superintendent, shall mean such negligence or misconduct as shall constitute, as a matter of law, a breach of the covenants and obligations of Superintendent hereunder, including, but not limited to, the willful breach or neglect of his duties set forth by law or in this Agreement. In addition, Cause shall include but is not limited to, the following:

- (1) Incompetence;
- (2) Insubordination;
- (3) Willful neglect of duties;
- (4) Immorality;

- (5) Inciting, encouraging, or counseling students to violate any valid state law, municipal ordinance, or policy or rule of the Board;
- (6) Failure to secure and maintain necessary educational training;
- (7) Failure to comply fully with any warranty set forth in Section 7 of this Agreement;
- (8) Making false or incorrect representations in Superintendent's Application for Employment or in the Warranties and Representations of Superintendent section of this Agreement;
- (9) Failure of Superintendent to obtain, earn, receive, possess, acquire, and maintain in full force all professional certificates and other educational requirements and endorsements required by this Agreement and/or the laws, rules and regulations of the Board, the Professional Standards Commission, or the State Board of Education or as may reasonably be required hereafter;
- (10) Inability of Superintendent to be bonded;
- (11) Any other ground for termination contained on O.C.G.A. § 20-2-940(a), as amended from time to time; or
- (12) Any other good and sufficient cause.

Criticisms or complaints which have not been previously shared with the Superintendent in accordance with the provisions of Section 6.1 of this Agreement shall not be admissible in a termination proceeding against the Superintendent.

- (e) The discharge of Superintendent by the Board for other than Cause.

The Board may, at its option, and by giving a minimum of ninety (90) days written notice to Superintendent, unilaterally terminate this Agreement for its convenience at any time. In the

event of such termination, the Board shall pay to Superintendent an amount equal to one year's base salary, or the pro-rata total of all remaining base salaries covered by the term of this contract, whichever is less, as damages for such termination for other than cause, regardless of when the termination occurs during the term of this Agreement.

(f) The resignation of Superintendent from this Agreement.

Superintendent may resign at any time during the term of this Agreement, provided that he has furnished the Board with written notice of his intention to resign at least one hundred twenty (120) days prior to the effective date of his resignation. Should any resignation pursuant to this paragraph take effect prior to the expiration of the term of this Agreement, then Superintendent: 1) shall not be entitled to any compensation, expenses, sick leave, vacation or benefits beyond the effective date of the resignation, except that vacation and sick days accrued as of the date of the resignation shall be paid in accordance with those provisions; and 2) shall pay the District \$100,000.00 if the resignation occurs in the first contract year, \$50,000.00 if the resignation occurs in year two, and \$25,000.00 if the resignation occurs in year three, as damages suffered by the District as a result of such premature resignation.

5.2 Notwithstanding anything else herein to the contrary, the Board may suspend Superintendent with pay pending the Board's investigation of any alleged violation under this Agreement, but if any delay in the investigation is caused by Superintendent whether due to lack of preparation, sickness, or otherwise, Superintendent shall not be paid for such period of delay.

5.3 In the event of termination of this Agreement for any reason, the Board's obligations hereunder, including, but not limited to financial obligations, except those that expressly survive the termination of this Agreement, shall terminate immediately.

Notwithstanding the foregoing, if this Agreement is terminated for other than cause under Section 5.1(e), the provisions of that section shall govern.

5.4 The Board is not required to prepare or implement any professional development or other remedial plan, or to first give notice of any deficiency to Superintendent before taking any disciplinary or other action involving termination or suspension of Superintendent's contract other than as provided for in Section 5.1(d).

6. Annual Performance Evaluation

6.1 Twice per school year, once at mid-school year and once at the end of the school year, the Board shall evaluate Superintendent's performance pursuant to the requirements of O.C.G.A. § 20-2-210. All such performance evaluation records shall be part of Superintendent's personnel evaluation file and shall be confidential. In performing the evaluations, the Board shall adhere to all statutes, rules and regulations relating to such evaluations.

The Board, individually and collectively, and in an effort to assist the Superintendent, may refer to him, either orally or in writing, all substantive criticisms, complaints and suggestions relating to the School System or the Superintendent's job performance, regardless of the source, called to the Board's attention. The Superintendent will inquire into such matters as he deems appropriate and periodically inform the Board of the results or status of such matters.

6.2 The Superintendent's evaluations, annual salary and reemployment will be based on the performance of the Superintendent, the achievement of the goals of the School System and other criteria the Superintendent and the Board may establish. The Board, at its sole discretion, may award a performance/incentive bonus annually to the Superintendent based upon agreed activities and/or criteria to be determined. The actual bonus shall be based upon achieving

specific performance objectives as set by mutual agreement between the Superintendent and Board.

6.3 If, after the evaluation performed at the end of the school year, the Board determines that the Superintendent meets expectations based on the Superintendent's evaluation and meets the agreed upon criteria set by the Board and the Superintendent for the performance bonus, the Board has the discretion to award the Superintendent an amount up to the performance bonus limits set out in paragraph 3.1 hereof, pro-rated for any partial school year, as an annual performance bonus.

7. Warranties and Representations of Superintendent

7.1 Superintendent warrants and represents as follows:

(a) That he is duly licensed and qualified to serve as Superintendent of School System at the time of making application for the position, and at the time of assuming the position, and that he will obtain all additional certificates, endorsements, qualifications, and additional training and other requirements as may be required by law or the Rules of The Professional Standards Commission, the State of Georgia Board of Education, and by the School System.

(b) That Superintendent possesses all additional degrees, qualifications, certificates and other requirements as may have been required by School System at the time of employment.

(c) That all information set forth in the Application for Employment presented to the School System by Superintendent was then and is now true and correct in every way and if any of said information ceases to be true and accurate, Superintendent will advise the Board thereof immediately.

(d) That Superintendent has never been convicted of any offense involving a felony or any other offense involving moral turpitude under the laws of any state of the United States, or any Foreign Country, including any first offender or nolo contendere dispositions.

(e) That Superintendent has never suffered revocation of any educational professional license or certificate, nor voluntarily surrendered same where charges or potential charges were pending or imminent.

8. Professional Liability

8.1 The Board agrees to defend, indemnify and hold harmless Superintendent from any and all demands, claims, suits, actions, and legal proceedings brought against Superintendent in his official or individual capacity, while acting within the scope of his employment, excluding criminal charges or actions, a criminal investigation, or a dispute relating to the termination of this Agreement. The Board may satisfy the purchase of liability insurance pursuant to the Georgia law. This paragraph does not and shall not be construed to create any personal liability on the part of any member of the Board.

If any conflict exists regarding the defense of such demands, claims, suits, actions or legal proceedings between the legal position of the Superintendent and the legal position of the Board, the Superintendent and the Board shall confer in good faith as to the appropriateness of the Superintendent engaging separate legal counsel from that of the Board, and if it is determined by the Board that separate legal counsel should be engaged, the Board shall indemnify the Superintendent for the costs of legal defense as permitted by State law.

The Board shall not, however, be required to pay any costs of legal proceedings in the event the Board and Superintendent have adverse interest in such litigation.

This Section 8 shall survive the termination of this Contract.

9. Modifications

9.1 No modification or waiver of any of the terms of this Agreement shall be valid unless in writing and signed by both parties.

10. General Provisions

10.1 This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia. It is expressly stated that the terms and conditions of this Agreement are subject to the provisions of the Constitution of the State of Georgia and the various laws of said State relating to a superintendent of an independent school system and to public education and is also subject to adequate appropriations by the General Assembly.

10.2 Any section, subsection, paragraph, term or provision of this Agreement that is adjudged, held, found or declared to be void, voidable, ultra vires, unlawful or otherwise not fully enforceable shall not affect any other part of this Agreement, and the remainder of this Agreement shall continue to be of full force and effect.

10.3 This Agreement represents the sole agreement between the Parties and supersedes any and all previous agreements or representations made by the Parties.

10.4 This Agreement may be executed in duplicate originals with either original sufficing as an original agreement.


[The remainder of this page is intentionally left blank. Signatures on following page.]

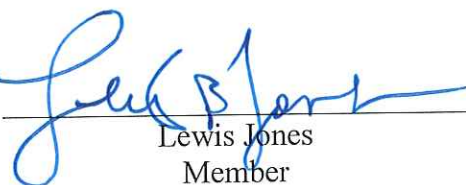
IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year first above written.

EMPLOYER:

BOARD OF EDUCATION
OF THE CITY OF DECATUR

By: 
Anne P. Caiola
Board Chair

By: 
C. Garrett Goebel
Vice Chair


By: 
Lewis Jones
Member

By: _____
Bernadette Seals
Member

By: 
Tasha White
Member

EMPLOYEE:

SUPERINTENDENT

by: 
David Dude, Ph.D.
Superintendent