

AMENDMENT TO SETTLEMENT AGREEMENT

This Amendment to the August 28, 2018 Settlement Agreement (“**Settlement Agreement**”) is made by and between the Board of Education of Jefferson County, Kentucky (“**JCBE**”) and the Kentucky Department of Education (“**KDE**”). JCBE and KDE are collectively referred to herein as the “**Parties**.”

RECITALS

WHEREAS, on August 28, 2018, KDE and JCBE entered into the Settlement Agreement in lieu of continuing with the administrative action styled *Kentucky Department of Education v. Board of Education of Jefferson County, Kentucky*, Kentucky Board of Education Administrative Action No. 2018-01 (the “**Action**”). The Action arose out of a management audit (the “**Audit**”) of the Jefferson County, Kentucky Public School District (“**JCPS**”) pursuant to KRS 158.780, KRS 158.785, and 703 KAR 3:205, and a subsequent recommendation by then Interim Commissioner Dr. Wayne D. Lewis that JCPS be declared a “state-managed” district pursuant to KRS 158.785(3) & (4) and 703 KAR 3:205;

WHEREAS, on August 29, 2018, the Hearing Officer for the Action signed an Agreed Recommended Order of Dismissal with Prejudice of the Action, and the Kentucky Board of Education, in a special called meeting, voted to accept the Recommended Order as a Final Order and dismissed the Action;

WHEREAS, in Section 1.D.[2] of the Settlement Agreement, JCBE agreed to “create a cabinet-level position with responsibility for oversight and management of Exceptional Child Education Services (“**ECE**”), including special education pursuant to the Individuals with Disabilities Education Act, within JCPS, and the Superintendent will appoint to this position an educator with at least 10 years’ experience in the area of ECE.” JCBE agreed that “[t]his appointment shall be made no later than January 1, 2019.”

WHEREAS, JCBE attests that JCBE and JCPS have made the following efforts to identify high quality applicants and fill the ECE position: advertised nationally, regionally and within the state; direct contact with educational organizations; and personal contacts to qualified individuals.

WHEREAS, to date, JCPS has not filled the position with a permanent appointment;

WHEREAS, JCBE attests that JCPS recently re-posted the position on December 28, 2018, with an application deadline of January 9, 2019;

WHEREAS, until such time as a permanent appointment is made, JCPS is appointing an internal staff member to serve as Acting Chief of ECE, and responsibility for oversight and management of ECE, including special education pursuant to the Individuals with Disabilities Education Act, will be held by this individual; and

WHEREAS, pursuant to Section 4 of the Settlement Agreement and in the spirit of working collaboratively and cooperatively to fulfill the ultimate goals of the Settlement Agreement, the parties desire to amend Section 1.D.[2] of the Settlement Agreement to allow JCBE and JCPS a reasonable extension of time to fill the position – on a permanent basis – with a highly qualified individual.

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

1. **Terms of Agreement.**

A. Section 1.D.[2] of the Settlement Agreement is amended to now read as follows:

In accordance with KRS 160.380 and other laws governing the hiring of public school employees, JCBE will create a cabinet-level position with responsibility for oversight and management of Exceptional Child Education Services (“ECE”), including special education pursuant to the Individuals with Disabilities Education Act, within JCPS, and the Superintendent will appoint to this position an educator with at least 10 years’ experience in the area of ECE. This appointment shall be made no later than March 1, 2019. Until such time as the position is filled, the JCPS Superintendent or his designee will include information about the status of the search and hiring process for this position in the Superintendent’s monthly written and oral report made to the KDE Commissioner or the KDE Commissioner’s designee, per Section 1.D.[6] of the Settlement Agreement.

B. All other provisions of the Settlement Agreement remain in full force and effect, as written and set forth in the August 28, 2018 Settlement Agreement.

IN WITNESS WHEREOF, the Parties have executed this Amendment to the Settlement Agreement as of the date set forth below:

KENTUCKY DEPARTMENT OF EDUCATION

By: _____

Its: _____

Date: _____

JEFFERSON COUNTY BOARD OF EDUCATION

By: _____

Its: _____

Date: _____