

# **The School Board of Escambia County**

75 North Pace Boulevard  
Pensacola, Florida 32505  
Telephone: (850) 469-6155 / Facsimile: (850) 469-6273

Kevin Adams  
District 1

Paul H. Fetsko  
District 2

Dr. Laura D. Edler  
District 3


Patty Hightower  
District 4

Bill Slayton  
District 5

Donna Sessions Waters  
General Counsel

## MEMORANDUM

TO: Mr. Norm Ross, Deputy Superintendent

FROM: Patricia Hightower, Board Chair 

DATE: May 14, 2019

RE: Amend Item Backup to the May 2019 Regular School Board Meeting Agenda

This memo represents a request to amend Section 3. Compensation on page 1 of the Agreement between the Escambia County School Board and Donna Sessions Waters, Esquire provided as backup for Item V.c.2. on the May 2019 Regular School Board Meeting agenda.

PH/eb

c: Administrative Recording Secretary

**AGREEMENT BETWEEN  
THE SCHOOL BOARD OF ESCAMBIA COUNTY, FLORIDA  
AND  
DONNA SESSIONS WATERS, ESQUIRE**

**THIS AGREEMENT** dated the 21<sup>th</sup> day of May, 2019, by and between **THE SCHOOL BOARD OF ESCAMBIA COUNTY, FLORIDA**, hereinafter referred to as the “Board” and **DONNA SESSIONS WATERS**, hereinafter referred to as “Mrs. Waters” (collectively referred to hereinafter as “the Parties.”)

**WITNESSETH**

**WHEREAS**, the Board has determined that it needs the services of an attorney as an employee of the Board; and

**WHEREAS**, the Board is authorized by Rule 6Gx1.11, Rules and Procedures of the District School Board, Escambia County, Florida, and Florida Statutes to employ an attorney; and

**WHEREAS**, the Board desires that Mrs. Waters be employed as its attorney and Mrs. Waters desires to accept such employment.

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

1. Term of Agreement: This agreement shall be in effect from July 1, 2019 until June 30, 2021, unless sooner terminated as provided herein.
2. Employment Relationship and Title: This relationship between the Board and Mrs. Waters shall be that of employer and employee. Mrs. Waters shall be entitled to all the rights and benefits of District professional and administrative personnel. Mrs. Waters’ title shall be General Counsel for the School Board of Escambia County, Florida, and her office shall be known as the Office of the General Counsel.
3. Compensation: Mrs. Waters’ compensation beginning July 1, 2019 shall be set according to the School District’s twelve month annual base scale administrative salary schedule for Pay Grade 1, Step 9. Throughout the term of this contract, Ms. Waters shall receive the same increase in compensation received by other administrative personnel arising from any and all

future increases in the administrative salary schedule, or other future increases in administrative personnel compensation.

4. Retirement and Benefits: In all other respects, Mrs. Waters shall be regarded as an employee and will be entitled to participate in such retirement plans and other fringe benefits, shall accrue sick leave and vacation leave, and her employment shall otherwise be governed by the personnel policies and procedures applicable to other employees of the school district, as they may exist or hereinafter may be amended, except to the extent that the benefits and personnel policies and procedures are inconsistent with this agreement, in which case this agreement shall govern the relationship between Mrs. Waters and the School Board.

5. Termination: This Agreement may be terminated by mutual agreement of the Parties, or by death or extended disability of Mrs. Waters. Throughout the term of this Agreement, Mrs. Waters shall be subject to discharge only for just cause, which shall include without limitation substantial breach of this Agreement. Notice of discharge shall be given to Mrs. Waters in writing. Mrs. Waters shall have the right to written charges and a fair post-termination hearing before an administrative law judge from the Division of Administrative Hearings. If it is determined that the discharge was not based upon just cause, Mrs. Waters is entitled to the compensation and benefits from the date of discharge for the remainder of the contract term; she shall not be entitled to reinstatement. Mrs. Waters recognizes that Board members may have voted in favor of the charges and notice of termination; however, Mrs. Waters nevertheless agrees that she is not entitled to have a Board member recused from participating in the consideration of the administrative law judge's recommended order and issuance of the final order on that basis. In the event Mrs. Waters voluntarily resigns her position with the Board, Mrs. Waters shall give the Board sixty (60) days written notice in advance, unless the Parties otherwise agree.

6. Renewal Term and Notice: The Board agrees to vote no later than six (6) months before the expiration of the 2-year term of this Agreement on whether or not to extend the term for an additional two (2) years. Mrs. Waters will give the Board at least thirty (30) days advance written notice of the required vote on the extension.

7. Dues, Fees and Membership in the Florida Bar: The Board agrees to pay Mrs. Waters' membership fees for the Florida School Board Attorneys Association, the Escambia/Santa Rosa Bar Association, and the Florida Bar, and up to five sections thereof. It is expressly understood that Mrs. Waters will continue to maintain all essential qualifications necessary to

satisfy the requirements of this position, including, specifically, good standing with the Florida Bar.

8. Status as Certified Education Law Expert: Mrs. Waters will continue to maintain her Florida Bar Board Certification in Education Law. The Board agrees to pay the annual fee associated with this certification.

9. Continuing Legal Education: Mrs. Waters shall be entitled to reimbursement for registration fees, travel food, lodging, and related expenses for Continuing Legal Education courses, consistent with Section 112.061, F.S, School Board Policy and departmental budgeting procedures.

10. Full Time and Effort: Mrs. Waters agrees to devote full time and effort to the performance of duties and responsibilities as General Counsel to the School Board and shall not engage in the practice of law on behalf of any client other than the Board, unless directed to do so by the Board, and she shall not engage in other outside employment without the express consent of the Board.

11. Office Hours: Mrs. Waters agrees to maintain hours in an office of the administrative building of the Board. Mrs. Waters agrees to devote a minimum of forty hours per week, and any additional time necessary, to the performance of duties and responsibilities as General Counsel.

12. Duties: The duties of Mrs. Waters as General Counsel shall include without limitation the following:

a. Attendance at regular or special School Board Meetings and such workshops as deemed appropriate by the General Counsel or the School Board, rendering legal advice and counsel.

b. Representation of the School Board (or the District) in administrative hearings, trials, appeals and civil matters as authorized by the Board, or the procurement and supervision of outside counsel at the General Counsel's discretion for such representation.

c. Review at least yearly the policies and procedures manual of the Board to determine if it is in compliance with state and federal law regulations. Mrs. Waters shall advise the Board and the Superintendent as to those policies which should be changed and recommend the appropriate content of the change.

d. Inform the Board and the Superintendent regarding any pertinent changes in state and federal law and advise of any needed or suggested legislation that will benefit the Board and the Superintendent, and advise the Board and the Superintendent as to how proposed legislation would affect the school system of Escambia County, Florida.

e. Coordinate legal services provided by outside counsel regarding real property issues, tort claims, workers' compensation, and employment law matters and arrange for representation of the Board in litigation in these areas.

f. Review and approve as to form all contracts and rules entered into on behalf of the Board, except as otherwise indicated by the Board.

g. Coordinate any litigation to which the School Board is a party, including appeals by assigning cases to outside counsel, referring cases to the school district's Risk Management Department, or by retaining the cases personally; delivering the information concerning said litigation in a timely fashion to the appropriate trial attorney; monitoring the progress and costs of any litigation to which the Board is a party by regular consultation with the Board's trial attorney.

h. Render such other legal services as the Board may from time to time require including serving as lead counsel in selected cases involving the Board.

i. Send written reports to the Board on a quarterly basis, or as otherwise directed by the Board, as to the progress of litigation.

j. Organize, direct, and evaluate the activities and performance of clerical and technical staff assigned to the General Counsel's Office, consistent with state law and School Board policies and procedures to ensure the effective and efficient delivery of legal services to the Board.

k. Conduct seminars and/or individual training of the Board and its individual members, newly elected members of the Board, employees of the Board or school district, as to legal issues faced by the Board and school district with the intent of reducing claims and assuring compliance with all applicable laws and regulations.

l. Perform all other duties assigned by the Board, consistent with the training and expertise of Mrs. Waters.

13. Space and Support: The Board will provide Mrs. Waters with adequate office space, secretarial and/or paralegal assistance, telephone service, equipment (including computers,

printer, etc.), books, publications, and all other materials necessary for the maintenance of the General Counsel's office at the district administration building. Mrs. Waters agrees to coordinate the budget requests for said office with administrative personnel.

14. Performance Evaluation: Prior to May 1st of each year, the Board members will produce written evaluations of Mrs. Waters' performance based upon criteria established by the Chair in consultation with Mrs. Waters, and the results of these written evaluations will be presented and discussed at a Board workshop.

15. Professional Responsibility: Mrs. Waters shall owe to the School Board the duties owed under the rules of professional responsibility governing members of the Florida Bar Association, including without limitation, the duty of loyalty, the duty of zealous representation, and the duty to keep the School Board informed of any and all matters relevant to Mrs. Waters' duties as General Counsel.

16. Political Activity: Mrs. Waters shall refrain from political activities relating directly or indirectly to the governance of the Board or school district, including, without limitation campaigning for, speaking on behalf of, encouraging candidates, or meeting with candidates.

17. Impartiality: Mrs. Waters shall refrain from partiality or affiliation with one or more School Board member to the exclusion of other School Board members.

18. Positive Image: Mrs. Waters shall at all times use her best efforts to promote a positive image of the School Board and the School District, so long as such efforts do not conflict with her duty to offer independent legal counsel, and abide by all state and federal laws, and the rules of professional conduct governing members of the Florida Bar.

19. Indemnification: The Board agrees to defend at the School Board's expense in Mrs. Waters' name and behalf, any and all suits, proceedings, grievances, and/or ethics complaints against her for actions arising out of, in the course of, or in any way related to the performance of her representation of the Board and/or District, even if any of the allegations of any such suit, proceeding, grievance, and/or ethics complaint are groundless, false, or fraudulent. Mrs. Waters may retain private counsel to represent her in accordance with the foregoing.

20. Modification: This agreement may be modified by mutual agreement of the Parties at any time. Any such modifications must be in writing and approved by majority vote of the Board to be enforceable.

21. Entire Agreement: This document contains the full understanding between the Parties and there are no material representations between the Parties that are not expressly contained herein.

22. Legal Fees and Expenses: In the event either party is required to take legal action to enforce the rights and responsibilities created herein, the prevailing party shall be entitled to recovery of reasonable attorney's fees and costs.

**IN WITNESS WHEREOF**, the Parties entered into this agreement this 21<sup>th</sup> day of May, 2019, as voted on and approved at a Board Meeting held on that date at Pensacola, Escambia County, Florida.

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

By: \_\_\_\_\_  
Patricia Hightower, Board Chair

Attest: \_\_\_\_\_  
Malcolm Thomas, Superintendent

By: \_\_\_\_\_  
Donna Sessions Waters, General Counsel