

## **EMPLOYMENT AGREEMENT**

**EMPLOYMENT AGREEMENT** (the “Agreement”) by and between the BOARD OF COOPERATIVE EDUCATIONAL SERVICES (the “Board”) OF THE SOLE SUPERVISORY DISTRICT OF ST. LAWRENCE-LEWIS COUNTIES (the “BOCES”), located in the Village of Canton, St. Lawrence County, State of New York and THOMAS R. BURNS (the “District Superintendent”), in accordance with the action of the Board, as confirmed in the minutes of the meeting held on the 14<sup>th</sup> day of March, 2019.

### **WITNESSETH**

**WHEREAS**, the Board has offered to continue to employ the District Superintendent as the chief executive and administrative officer of the BOCES, upon the terms and conditions set forth herein; and; and

**WHEREAS**, the District Superintendent has accepted said offer of employment; and

**WHEREAS**, it is agreed and understood by and between the parties that this Agreement supersedes and replaces any and all other written Employment Agreements, or amendments thereto; and

**WHEREAS**, the parties wish to formalize the agreements, understandings, and terms and conditions of the employment of the District Superintendent.

**NOW THEREFORE**, in consideration of the conditions, covenants, and terms herein contained, it is mutually agreed as follows:

1. **Employment of District Superintendent.** The BOCES does hereby employ the District Superintendent pursuant to §1950(4) (a) and 2201 through 2217 of the Education Law of the State of New York, to perform the duties of the District Superintendent of Schools in and for the public schools in the Sole Supervisory District of St. Lawrence-Lewis Counties for the period

July 1, 2018 through June 30, 2021, unless further extended or sooner terminated. The District Superintendent hereby accepts such employment.

2. **Duties of District Superintendent.** The District Superintendent shall be the chief administrative officer of the BOCES and shall perform all the duties, accept all responsibilities, and have all the power and authority ordinarily required of and vested in a District Superintendent of Schools pursuant to the provisions of the Education Law of the State of New York, and such other duties as may be required by the Commissioner of Education or the Board. The Board may, from time to time, prescribe additional duties and responsibilities for the District Superintendent; provided, however, that the Board shall not, without the District Superintendent's written consent, adopt any policy, bylaw or regulation which impairs or reduces the duties, responsibilities and authorities specified above; and provided, further, that all additional duties and responsibilities prescribed by the Board are consistent with those normally associated with the position of District Superintendent in the State of New York.

The District Superintendent is a non-voting member of the BOCES Board of Education, and, as such, he is expected to attend all BOCES Board Meetings except those where his performance/and or salary is being discussed.

The District Superintendent shall possess and maintain a valid certificate to act as a District Superintendent of Schools in the State of New York during the term of his employment with the BOCES.

3. **Authority of District Superintendent.** Without limiting paragraph "2", the District Superintendent will have authority to:

(a) Organize, reorganize, and arrange the administrative and supervisory staff, after discussion with the Board, in a manner which, in his judgment, best serves the BOCES;

(b) Administer the instructional and business affairs of the BOCES with the assistance of his staff;

(c) Select and recommend for appointment and dismissal all administrative, instructional and non-instructional personnel, with Board approval;

(d) Supervise and direct associate, assistant and other superintendents, directors, supervisors, principals, teachers and all other persons employed in either the business management or the instructional activities of the BOCES; and

(e) Transfer teachers from one school to another, or from grade of a course of study to another grade in such course.

4. **Compensation.** The total combined 12-month annual salary for the District Superintendent, for the period beginning July 1, 2018 and ending June 30, 2019 shall be \$166,762, including the portion paid by the State of New York pursuant to Education Law §2209 (\$43,499) and the supplementary salary paid by the BOCES pursuant to Education Law §1950(4)(a) (\$123,263). Such supplemental salary shall be paid in equal installments in accordance with the policy of the BOCES governing payments of other administrative staff members in the District. The total combined annual salary for the District Superintendent for all years July 1, 2018 through June 30, 2019 shall be a sum not less than \$166,762 which annual salary may be increased by the Board pursuant to the provisions of section 5.b. as hereinafter set forth. After the total combined annual salary has been established for a particular fiscal year, the Board shall not reduce the total combined annual salary below that amount in a subsequent year or years.

5. **Salary Adjustment.**

(a) The supplemental salary shall be increased or decreased by the Board from time to time as necessary so that the District Superintendent's total salary comprised of the State of New York share and the supplemental salary equals the total combined annual salary of \$166,762 for the 2018-19 school year, and such other total combined annual salary as may be established for any subsequent school year.

(b) The Board retains the right to increase the total combined annual salary of the District Superintendent during the term of his employment by the BOCES. The total combined annual salary shall not be less than that paid to the District Superintendent in any prior period. **However, under no circumstances may such adjustment result in total salary exceeding the statutory salary cap prescribed by Education Law §1950(4)(2).**

(c) The District Superintendent is the leader of the regional educational community and in such capacity he is expected to show such leadership in controlling and/or reducing educational costs, including salaries, if State, National and/or World economic or other conditions dictate. As such, there may be occasions when, if other BOCES employees are willing to forego wage increases, or accept a reduction in pay, that a mutual agreement may be reached between the District Superintendent and the BOCES Board to establish an appropriate reduction in his salary to help address such economic or other conditions impacting the BOCES and the local districts.

(d) Any adjustment in the supplemental salary or the total combined annual salary made during the term of the District Superintendent's employment shall be in the form of an amendment to, and shall become a part of, this Agreement; provided, however, that by so doing, it shall not be considered that the BOCES has entered into a new agreement with the District Superintendent, nor that the termination date of this Agreement has been extended. However, the BOCES may, by specific action, amend this Agreement to extend the termination date of this Agreement if such extension is permitted by state law.

6. **Leave Allowances (Board's share of salary).** The District Superintendent shall accumulate leave time, including but not limited to vacation leave, personal leave, and sick leave ~~and bereavement leave~~ in accordance with the State of New York policy applicable to management/confidential employees. The BOCES Board will match the leave provided by the State for its share of the District Superintendent's salary. It is understood that pursuant to such state policy, the District Superintendent is permitted to carryover, and to be paid at the time of his retirement, unused vacation days, up to a maximum of thirty (30) days, in accordance with such policy.

7. **Health Insurance.** The BOCES shall provide health insurance coverage for the District Superintendent and his family through the St. Lawrence- Lewis County Employees Health Plan and the BOCES shall pay 90% of the annual premium for both the individual and dependent coverage. This benefit shall continue into retirement should the District Superintendent be employed by the BOCES at the time of retirement, which provision shall be enforceable and shall survive the term of this Agreement. The District Superintendent shall also have the opportunity to participate in the IRS Section 125 Flexible Spending Plan. Retirement shall be defined as drawing retirement benefits from the New York State Teachers' Retirement System (TRS).

8. **Holidays.** The District Superintendent shall be entitled to ~~twelve (12) paid~~ holidays annually. ~~Therefore, although the District Superintendent is not required to report to the BOCES on days when the BOCES is closed and no BOCES employee is required to report to work, to the extent that such holidays provided by the BOCES exceed that to which New York State Management/Confidential employees are entitled, the District Superintendent shall continue to function in the role as District Superintendent and must be available and accessible to the Commissioner on such additional days. those holidays specified by the Board in the annually~~

~~adopted calendar as the days on which the BOCES administrative offices are closed.~~

9. **Life Insurance.** The BOCES Board will pay the annual premium on the life insurance policy (Northwestern Mutual Policy #21-721-587), life insurance policy (Northwestern Mutual Policy #18-716-300), and disability insurance policy (Northwestern Mutual Policy #D2-046-211) for the District Superintendent. It shall be the responsibility of the District Superintendent to select and make arrangements for such insurance. Payment shall be made upon presentation to the BOCES of a copy of the premium bill or invoice.

10. **Tax Sheltered Annuity.** During each year of this Agreement, and any extended term hereof, the Board will deduct such sum as the Superintendent shall direct in writing from the Superintendent's salary, as established in paragraph 7 of this Agreement, and apply the same to the purchase of IRS § 403-b program of the Superintendent's choosing.

11. **Professional Meetings.** The District Superintendent may attend appropriate professional meetings at the local, state and national levels, the expense of said attendance to be incurred by the BOCES. However, conferences held more than 300 miles from the District, or more than three (3) days in duration, shall be attended only after the Board has been notified of and approved same.

12. **Expenses.** The BOCES will provide payment as reimbursement to the District Superintendent for all expenses incurred in the performance of duties related to the management and operation of programs and services offered by BOCES as well as the State duties of the District Superintendent, including but not limited to the purchase cost of a reasonably state of the art cellular phone with email, texting and internet capability as well as the data and cellular fees incurred for use of the cellular phone. The District Superintendent shall submit appropriate documentation verifying the expenses incurred.

The BOCES shall also provide the District Superintendent with a laptop computer. It is

understood that the District Superintendent be permitted to have incidental personal use of the laptop computer and the cellular phone.

13. **Association Memberships.** The annual dues for the District Superintendent's membership in the New York State Council of School Superintendents and the American Association of School Administrators shall be paid by the Board. In addition, the Board shall pay the annual dues for one other professional organization selected by the District Superintendent.

14. **Annual Physical.** The District Superintendent shall have a comprehensive medical examination, including appropriate laboratory and cardio testing, each year by a physician of his choosing. The District Superintendent shall file a statement from his physician with the Clerk of the Board certifying the District Superintendent's fitness for the position. Such statement shall be treated as confidential information and shall not be disclosed or released by any member of the Board. Any cost for such annual medical examination not covered by the health insurance plan shall be paid by the Board. **Any payment for the employee contribution, co-pay or uncovered medical expenses under a health insurance plan shall be included in the total salary of the district superintendent.**

15. **Transportation.** The District Superintendent shall be provided with a BOCES-owned or BOCES-leased late model automobile for business and incidental personal use of commuting to and from his residence during the initial term or any extension of this Agreement. The expenses for operation of such vehicle including gasoline, insurance, maintenance and repairs, etc., shall be paid by the BOCES.

16. **Indemnification.**

(a) The Board agrees to provide legal counsel and to indemnify the Superintendent against all uninsured financial loss arising out of any claim, demand, suit or judgment against the Superintendent for any act committed while the Superintendent is acting within the scope of his employment or under the direction of the Board.

(b) As a condition of receiving such indemnification, the Superintendent shall, within ten (10) days of the time he is served with any summons, complaint, process, notice, demand or pleading, deliver a copy of the same to the Board.



17. **Annual Evaluation.** On or about March 1<sup>st</sup> of each year during the term of this Agreement, the Board shall review the performance of the District Superintendent for the previous year by utilizing the evaluation instrument annexed hereto as Exhibit “A”. The annual performance review of the Board shall be based upon the success in attaining the goals established by the Board and District Superintendent each year in July, and such other criteria as is set forth in the evaluation instrument. The evaluation shall be reduced to written form and presented to the District Superintendent with periodic opportunities to discuss District Superintendent-Board relationships. Upon the mutual agreement of the parties, the evaluation instrument may be modified for subsequent evaluations.

The Board shall also devote a portion of one meeting during the month of December to a general discussion, in executive session, for a general discussion with respect to the District Superintendent’s performance and his working relationship with the Board.

The performance evaluation prepared pursuant to this section shall be confidential, and the confidentiality of such evaluation shall be maintained by the Board and the individual members of the Board.

19. **Concerns.** The Board, individually and collectively, shall promptly and discreetly refer to the District Superintendent, for his study and recommendations, any and all criticisms, complaints, suggestions, communications or comments which the Board deems to be significant regarding the administration of the St. Lawrence-Lewis BOCES or the District Superintendent’s performance of his duties.

20. **Termination.** (a) In the event that by reason of illness, accident or other cause beyond his control, the District Superintendent shall be incapacitated from rendering the services required for a period of six (6) months beyond the expiration of his accumulated and unused

leave entitlements, the Board may, at its option and upon written notice to the District Superintendent, terminate this agreement. In such event the compensation provided herein shall be paid to the Superintendent for a period of three (3) months beyond the month in which this contract shall have been so terminated.

(b) In the event of a termination by the BOCES for any reason other than the incapacity of the District Superintendent, the District Superintendent shall be entitled to a due process hearing before a hearing officer mutually agreed upon by the Board and the District Superintendent. If no such agreement is reached within fourteen (14) days after service of charges upon the District Superintendent, the parties shall immediately contact the American Arbitration Association (AAA) and a hearing officer will be appointed in accordance with AAA rules. The hearing officer will issue recommended findings of fact and conclusion of law to the Board and the District Superintendent within thirty (30) days of the close of the hearing. Within ten (10) days of receipt of the recommended findings of fact and conclusion of law, the Board shall inform the District Superintendent, in writing, of the Board's decision and the reasons therefore.

21. **Distinguished Educators.** Consistent with and pursuant to Education Law §211-B(5)(a) the District Superintendent shall cooperate fully with any distinguished educator(s) appointed by the Commissioner of Education.

22. **Applicable Law.** This Agreement is entered into pursuant to the laws of New York State and shall be applied and interpreted according to the laws thereof.

23. **Term of Agreement.** Except as otherwise provided herein, the duration of the conditions and benefits contained within this Agreement shall only be for the time period during which the District Superintendent is employed. Except for the resignation, termination of

employment, or death of the District Superintendent of Schools, this Agreement shall continue in effect from July 1, 2018 through June 30, 2021, unless otherwise extended by an amendment to this Agreement. Throughout the term of this Agreement, the District Superintendent will be released from his obligations upon submission of his resignation to the BOCES at least sixty (60) days prior to his departure.

The Board shall notify the District Superintendent, at the July, 2019 meeting, and each July meeting thereafter, whether it intends to extend his employment for an additional year commencing on July 1, 2019 or whether the District Superintendent's term will expire on June 30, 2021. At such time, a motion to extend the term of this Agreement and the District Superintendent's employment for an additional one (1) year period will be moved, seconded and voted upon by the Board. The failure of the Board to act in accordance herewith shall not cause this Agreement or the employment of the District Superintendent to be extended beyond the then current expiration date.

24. **Savings Provision.** If any part of this Agreement is determined by a court of competent jurisdiction, or the Office of Counsel in the State Education Department (SED), to be contrary to law, then (a) such part shall be of no further force and effect, (b) the remainder of the Agreement shall continue in full force and effect, and (c) the District Superintendent and the BOCES Board shall meet promptly to agree mutually upon a replacement for the part found to be contrary to law or other part of this Agreement which the BOCES Board and the District Superintendent mutually agree should be changed as a result of the decision of the court or SED.

**IN WITNESS WHEREOF**, the parties have executed or caused to be executed this Employment Agreement on this 14<sup>th</sup> day of March, 2019.

**BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR THE  
SOLE SUPERVISORY DISTRICT OF ST. LAWRENCE-LEWIS COUNTIES**

By: \_\_\_\_\_  
**Roger M. Bennett, President**

By: \_\_\_\_\_  
**Thomas R. Burns, District Superintendent**

STATE OF NEW YORK                    )  
COUNTY OF ST. LAWRENCE        ) ss:

On this \_\_\_\_ day of March, 2019, before me came **Roger M. Bennett**, to me known who, being by me duly sworn, did depose and say that he is the President of the BOARD OF EDUCATION OF THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR THE SOLE SUPERVISORY DISTRICT OF ST. LAWRENCE-LEWIS COUNTIES described in, and which executed the foregoing Agreement; that he knows the seal of said BOCES; that the seal affixed to said Agreement is such BOCES seal; that it was so affixed by order of the Board of Education of said BOCES; and that he signed his name thereto by like order.

\_\_\_\_\_  
**Notary Public**

STATE OF NEW YORK                    )  
COUNTY OF ST. LAWRENCE        ) ss:

On this \_\_\_\_ day of March, 2019, before me came **Thomas R. Burns**, to me known and known to me to be the person described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

\_\_\_\_\_  
**Notary Public**

**CERTIFICATION**

This is to certify that this Agreement was approved and the execution hereof on behalf of the Board of Education was authorized by vote of the BOARD OF EDUCATION OF THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR THE SOLE SUPERVISORY DISTRICT OF ST. LAWRENCE-LEWIS COUNTIES at a regular meeting held on March 14, 2019, and has been made a part of the minutes of that meeting.

\_\_\_\_\_  
**Maureen A. Bouchey, Clerk**  
Board of Cooperative Educational Services, Sole Supervisory  
District, St. Lawrence-Lewis Counties

STATE OF NEW YORK)  
COUNTY OF ST. LAWRENCE) ss:

On this \_\_\_\_ day of March, 2019, before me came **Maureen A. Bouchey**, to me known, who being by me duly sworn, did depose and say that she is the Clerk of the BOARD OF EDUCATION OF THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR THE SOLE SUPERVISORY DISTRICT OF ST. LAWRENCE-LEWIS COUNTIES described in, and which executed the foregoing Agreement; that she knows the seal of said BOCES; that the seal affixed to said Agreement is such BOCES seal; that it was so affixed by order of the Board of Education of said BOCES; and that she signed her name thereto by like order.

\_\_\_\_\_  
**Notary Public**

