

## SEPARATION AGREEMENT

THIS SEPARATION AGREEMENT (hereinafter "Agreement") is made and entered into this \_\_\_ day of February, 2013, by and between Dr. Cheryl L. H. Atkinson (hereinafter "DR. ATKINSON") and the DeKalb County Board of Education (hereinafter "BOARD") on behalf of the DeKalb County School District (the "District"), collectively the "Parties."

### WITNESSETH

WHEREAS, the Parties hereto entered into that certain Employment Contract dated August 29, 2011, as amended November 30, 2011; and

WHEREAS, DR. ATKINSON and the BOARD have mutually determined that it is in the best interest of the District, DR. ATKINSON, and the BOARD for her to separate from her employment with the BOARD; and

WHEREAS, the BOARD and DR. ATKINSON wish one another well in their future endeavors.

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

1. Separation from Employment:

DR. ATKINSON will separate from her position as Superintendent of Schools on February 8, 2013, as of midnight. A public announcement of the same will be made jointly by the Parties in writing on or before close of business on Friday February 8, 2013. The Parties agree to work cooperatively to quickly prepare a mutually approved joint public statement that is brief and non-disparaging which will be released before the deadline noted above.

The Employment Contract between the Parties dated August 29, 2011, and Amendment to Employment Contract dated November 30, 2011, will have no force and effect as of midnight January 31, 2013. This Agreement will control the respective rights, duties and responsibilities of the Parties each to the other from February 1, 2013 forward.

2. Payment to Dr. Atkinson:

In consideration for her covenants and continuing duties as set forth in this Agreement, the District will make payments to DR. ATKINSON in the amount of \$22,916.66 per month for five months (February through June 2013) for a total amount of \$114,583.33. Monthly Payments will be made by the District to DR. ATKINSON on the first business day of each month, except that the first payment will be paid by February 15, 2013, retroactive to February 1, 2013. Retirement and other withholdings do not apply to payments pursuant to this Section because DR. ATKINSON will no longer be an employee. Any tax liability and reporting obligation with regard to the compensation provided for by the Section shall be the exclusive responsibility of DR. ATKINSON.

Any unused vacation and/or sick leave accrued through January 31, 2013 as provided for in the Employment Contract will be paid in accordance with said Contract. No vacation or sick leave will accrue or be deducted after January 31, 2013.

3. Expenses:

Any expenses provided for in the Employment Contract and accrued before January 31, 2013 will be paid directly or reimbursed by the BOARD to DR. ATKINSON in accordance with the Employment Contract. Any expenses incurred by DR. ATKINSON after January 31, 2013 will not create any obligation for the BOARD, except as set forth herein.

4. District Property:

The BOARD has provided an automobile for DR. ATKINSON's use in performing her duties under the Employment Contract. This automobile will be returned to the BOARD along with all keys to the automobile by February 8, 2013. DR. ATKINSON will simultaneously return the keys to all District facilities, as well as all property belonging to the District, including all computers, iPads, phones, books, papers, or any other items or documents provided for her use by the BOARD. In no event will DR. ATKINSON retain any property that is owned by the District.

5. Dr. Atkinson's Continuing Duties:

In exchange for the payments set forth in paragraph 2 above, DR. ATKINSON agrees that she will fully cooperate with the BOARD, as well as its attorneys and agents, in any administrative actions or suits presently pending or filed, or that become pending or filed in the future, by or against the BOARD, or any administrator, teacher, staff or employee of any kind, that relate to her tenure as Superintendent by making herself available to consult with and assist the BOARD's attorneys or agents for discovery, depositions, hearings or trial testimony and any other means that may be necessary to pursue or defend any such actions. There will be no further payment beyond that set forth in paragraph 2 above to DR. ATKINSON for the exercise of such duties and cooperation in said matters, but DR. ATKINSON's duty to cooperate and assist in such matters shall continue until they are resolved. The District will bear financial responsibility for any and all reasonable and necessary expenses associated with the same such as travel, hotel, food and the like necessary for the carrying out of such cooperation. Expenses pursuant to this Section will not exceed the amounts provided for such expenses by State or School District regulations unless circumstances require otherwise and the Parties mutually

agree. Such expenses may either be paid directly by the BOARD or reimbursed to DR. ATKINSON upon the submission of receipts, whichever is most practical in the various circumstances as they arise.

6. Non-Disparagement:

The separation of DR. ATKINSON from employment with the BOARD is mutual and amicable. The BOARD and DR. ATKINSON will refrain from making any public or private statements of a disparaging nature as to the other. This provision is not intended to prevent either party from making any truthful statement under subpoena or before any official, educational or governing body.

7. Indemnity:

The BOARD will indemnify, hold harmless and undertake to defend DR. ATKINSON from any civil action brought or maintained against DR. ATKINSON where such action arises out of the lawful performance of DR. ATKINSON's duties for the BOARD under the Employment Agreement; whether such action is based on negligence, violation of contract rights, or violation of civil, constitutional, common law, or other statutory rights, whether state or federal. This promise to indemnify and defend shall not apply to any action based upon or attributable to DR. ATKINSON gaining in fact any personal profit or advantage to which she was not legally entitled. Nothing herein shall be construed as waiving immunity or privilege now or hereafter enjoyed by the District, any BOARD member, or DR. ATKINSON.

8. Entire Understanding:

It is agreed that this written Agreement will constitute the entire agreement between the parties and supersedes all prior agreements, understandings, offers and negotiations, oral or

written including the Employment Contract dated August 29, 2011 and Amendment to Employment Contract dated November 30, 2011.

9. Full and Knowing Agreement:

The Parties represent, warrant and mutually agree that each has read this Agreement and understands the same and that they have separately consulted with their legal counsel regarding this Agreement, were allowed a reasonable time to contemplate this Agreement and freely and voluntarily enter into this Agreement.

10. Mutual Release and Covenant Not to Sue:

The Parties hereby agree, in consideration for the undertakings and promises set forth in this Agreement as follows:

- a.) DR. ATKINSON hereby releases, discharges, and holds harmless the BOARD, its Members, and all District officers, agents, employees, attorneys, insurers, successors and assigns, from each and every claim, cause of action, right, liability, or demand of every kind and nature that DR. ATKINSON had, has, or might claim to have against the same.
- b.) The BOARD hereby releases, discharges, and holds harmless DR. ATKINSON, her heirs and assigns, agents and attorneys, from each and every claim, cause of action, right, liability or demand of any kind and nature that the BOARD had, has, or might claim to have against the same.
- c.) The Parties hereby covenant not to file suit against one another except to enforce this Agreement.
- d.) Nothing in this Paragraph shall be construed to prevent the full enforcement of this Agreement as provided for herein.

11. Dispute Resolution:

In the event that the Parties are unable to resolve any dispute that may arise out of the performance of either party under this Agreement, the Parties agree that they will submit such dispute to non-binding mediation. The Parties will mutually agree upon a mediator. If they cannot so agree then the Parties agree to have a mediator from the American Arbitration Association roster randomly selected to conduct their mediation. The Parties will split the costs of the mediation.

In the event that a dispute is not resolved by mediation, then all issues or claims arising out of or related to this Agreement may be submitted to binding arbitration by the mutual consent of the parties. Any mediation or arbitration shall be in Atlanta, Georgia unless the Parties agree otherwise. If mediation and arbitration do not resolve a dispute, such dispute will be resolved by settlement or litigation in DeKalb County, Georgia.

12. Georgia Law:

It is agreed that this Agreement shall in all respects be governed, construed, interpreted, and enforced in accordance with the laws of the State of Georgia, without regard to its choice of law principles, and any issues or claims arising out of or related to this Agreement shall be brought in the state or federal courts for DeKalb County, Georgia.

13. Execution:

The Parties agree that this Agreement may be executed in counterparts, each of which shall be deemed to be an original, and all counterparts so executed shall constitute one Agreement binding upon each of the Parties hereto, notwithstanding that both Parties are not signatories to same counterpart. Signatures transmitted by facsimile or by electronic mail shall be deemed originals.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of the day and year first specified above.

DR. CHERYL L. H. ATKINSON

DEKALB COUNTY BOARD OF EDUCATION

\_\_\_\_\_  
Dr. Cheryl L. H. Atkinson

\_\_\_\_\_  
By: \_\_\_\_\_  
As Chair

Attest: \_\_\_\_\_

By: \_\_\_\_\_  
As Vice Chair