

EMPLOYMENT AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____ 2010, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "THE SCHOOL BOARD"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

EDWARD J. MARKO
(hereinafter referred to as "MARKO" or "GENERAL COUNSEL EMERITUS"),
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

WHEREAS, THE SCHOOL BOARD has the authority to retain a General Counsel Emeritus for THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA; and

WHEREAS, MARKO has agreed to be employed by THE SCHOOL BOARD in such capacity, and on the terms and conditions provided herein, giving his time, energy and ability to the furtherance of THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA; and

WITNESSETH:

NOW THEREFORE, in consideration of the Premises and the mutual agreements herein provided, THE SCHOOL BOARD and MARKO hereby agree as follows:

1. RECITALS. The foregoing recitals are true and correct and incorporated herein by reference.

2. EMPLOYMENT AND TERM. THE SCHOOL BOARD hereby employs MARKO as GENERAL COUNSEL, and MARKO hereby accepts and agrees to such employment, for a term commencing January 1, 2011 and ending December 31, 2011.

3. DUTIES.

A. The GENERAL COUNSEL EMERITUS shall serve as a technical, informational and advisory resource to THE SCHOOL BOARD, the General Counsel, and to the Superintendent of Schools and district staff regarding legal and procedural issues affecting the school district and to perform such other duties, consistent with the duties of this position, as assigned by The School Board. While the GENERAL COUNSEL EMERITUS will perform an advisory function, it is agreed and understood that the rendition of legal opinions, rulings, and interpretations to guide the school district is the responsibility of the General Counsel.

B. The GENERAL COUNSEL EMERITUS shall work collaboratively with the General Counsel upon any legal and procedural matters that are referred to the GENERAL COUNSEL EMERITUS by the General Counsel in areas which may include, without limitation, the following:

1. Consultation upon significant legal matters, including civil, appellate and administrative litigation and other legal issues arising in the course of school district operations;
2. Review of proposed contracts, school board policies and procedures, pleadings, motions, or other legal documents;
3. Observation and consultation support at hearings, meetings and other events;
4. Monitoring current legal developments, literature and technical sources of information regarding education law matters and assigned duties;
5. Provision of in-service presentations and training on legal matters to appropriate district staff;
6. Recommend revisions to district policies and procedures to ensure compliance with applicable federal and state laws and rules promulgated by the Florida Board of Education; and
7. Perform such other duties, consistent with the duties of this position, as referred by the General Counsel.

C. The GENERAL COUNSEL EMERITUS shall work collaboratively with the Superintendent of Schools and district staff to provide, upon request, consultations with or in-service presentations to appropriate district staff regarding school district operations, policies, and procedures.

D. The GENERAL COUNSEL EMERITUS shall work collaboratively with the Risk Management Department upon areas which may include, without limitation, the following:

1. Conduct a program review of processes and procedures for the involvement of the Office of the General Counsel in the monitoring of all third party liability and Workers Compensation claims administered by the district's self-insurance program;
2. Facilitate training to the district's third party administrator(s) and applicable district staff concerning any recommended modifications and enhancements of claims procedures resulting from the program review;
3. Development of a standard process for communicating relevant and pertinent information to The School Board concerning the legal proceedings administered by the district's self-insurance program; and
4. Review compensation paid to those outside defense attorneys providing legal services for claims administered by the district's self-insurance program and to recommend a process to periodically review the appropriateness of compensation.

E. THE SCHOOL BOARD shall furnish the GENERAL COUNSEL EMERITUS with clerical and stenographic services, office supplies and equipment, computer and telecommunications equipment, the equipment and subscription necessary to conduct Westlaw legal research, appropriate legal books and publications, adequate office space within the Kathleen C. Wright Administration Building, membership in the Council of School Attorneys ("COSA") and the Florida School Board Attorneys Association ("FSBAA") and, authorize out-of-county travel for the GENERAL COUNSEL EMERITUS including his attendance at meetings of The Florida Bar's Education Law Committee and FSBAA.

F. Provided that such activities do not interfere or conflict with his duties under this Agreement, the GENERAL COUNSEL EMERITUS may engage serve as a consultant to other companies, school districts or educational agencies, lecture, teach, engage in writing or speaking activities, practice law, and engage in other outside professional activities for compensation (hereinafter referred to as "Consulting Work"). Any Consulting Work undertaken by the GENERAL COUNSEL EMERITUS must be performed on the GENERAL COUNSEL EMERITUS's vacation time, personal leave time, holidays, or other non-duty time.

4. COMPENSATION. For all services rendered by the GENERAL COUNSEL EMERITUS pursuant to this Agreement, THE SCHOOL BOARD shall pay to and provide for the GENERAL COUNSEL the salary, and other benefits described in this Agreement.

A. **Salary.** The GENERAL COUNSEL EMERITUS receives an annual salary of two hundred sixteen thousand ten dollars (\$216,010) subject to additional increases as described below, less appropriate deductions for employment taxes and income tax withholding. Such salary shall be paid in accordance with THE SCHOOL BOARD's normal payroll procedures for administrative employees.

During each year of the term of this Agreement, the GENERAL COUNSEL EMERITUS'S salary shall be increased by the percentage of salary increase provided to other 12-month administrative employees of THE SCHOOL BOARD. Each such increase to the General Counsel's salary shall become effective as of the date of THE SCHOOL BOARD's approval of the increase applicable to its 12-month administrative employees.

B. **Retirement.** In addition to the salary provided in Paragraph A above, the GENERAL COUNSEL EMERITUS shall participate in the Florida Retirement System and all other retirement programs for which he is or may become eligible during the term of this Agreement.

THE SCHOOL BOARD designates the position of GENERAL COUNSEL EMERITUS for inclusion in the Senior Management Service Class of the Florida Retirement System in accordance with Section 121.055, Florida Statutes. THE SCHOOL BOARD authorizes and directs the appropriate school district staff to take all actions necessary to carry out and perfect this designation.

C. Employee Benefits. For each year of this Agreement, THE SCHOOL BOARD shall provide health, dental, vision, life insurance and other flexible benefits which the GENERAL COUNSEL EMERITUS elects for himself from THE SCHOOL BOARD's standard benefit program available to administrative employees, all without cost to the GENERAL COUNSEL EMERITUS. The GENERAL COUNSEL EMERITUS'S family will be eligible for these benefits in the same manner as are the families of other administrative employees of THE SCHOOL BOARD.

D. Other Benefits. The GENERAL COUNSEL EMERITUS shall have the right to participate in any benefit or program to which other 12-month administrative employees of THE SCHOOL BOARD are entitled, unless otherwise expressly set forth herein.

E. Vacation, Sick Leave, and Terminal Pay.

1. Vacation, Sick Leave, and Holidays. During the term of employment under this Agreement, the GENERAL COUNSEL EMERITUS shall be entitled to the same annual leave benefits as authorized by School Board policies for administrative employees on 12-month calendars. In addition, the GENERAL COUNSEL EMERITUS shall be entitled to sick leave as authorized by School Board policies for administrative employees on 12-month calendars. The GENERAL COUNSEL EMERITUS shall be entitled to the same holidays as the 12-month administrative employees of THE SCHOOL BOARD.

2. Terminal Pay. Upon termination of employment, the GENERAL COUNSEL EMERITUS shall receive: (a) payment in a lump sum of accrued, but unused vacation time at the rates and up to the limits set forth in Board Policy 4480, as amended, applicable to administrative employees hired on or after July 1, 1995; and (b) payment in a lump sum of accrued, but unused, sick leave at the rates and up to the limits set forth in Board Policy 4305, as amended. These lump sum payments shall be in addition to any other amounts payable to the GENERAL COUNSEL EMERITUS upon termination of employment under this Agreement and applicable law.

5. TERMINATION.

A. Termination for Disability. THE SCHOOL BOARD shall have the right to terminate the GENERAL COUNSEL EMERITUS'S employment hereunder in the event of his disability to perform fully his duties hereunder. In such event, THE SCHOOL BOARD shall pay to the GENERAL COUNSEL EMERITUS, as severance pay and in full satisfaction of THE SCHOOL BOARD'S obligations hereunder, a lump sum equivalent to his salary for one (1) year at the rate then in effect plus the termination benefits set forth in Section 4F of this Agreement. The GENERAL COUNSEL EMERITUS agrees that THE SCHOOL BOARD shall have sole and absolute discretion to decide upon such termination, and that in event of such termination he waives all rights to contest or challenge THE SCHOOL BOARD'S decision and will accept the benefits provided above in full satisfaction of THE SCHOOL BOARD'S obligations hereunder and in full release of any and all claims against THE SCHOOL BOARD under this Agreement.

B. Payment in the Event of Death. In the event of the death of the GENERAL COUNSEL EMERITUS at any time during the term of this Agreement, THE SCHOOL BOARD shall pay to his surviving spouse, if any, or if the GENERAL COUNSEL EMERITUS does not

have a surviving spouse, to the GENERAL COUNSEL EMERITUS'S estate, an amount equal to the portion of the GENERAL COUNSEL EMERITUS'S salary to which he was entitled through the date of his death, payable within one (1) month of the date of his death, plus the termination benefits set forth in Section 4F together with such payments or benefits as are authorized by law or School Board policies.

C. Termination by Resignation. The GENERAL COUNSEL EMERITUS may resign during the term of this Agreement without the consent of THE SCHOOL BOARD upon ninety (90) days notice. In such case, he will receive the termination benefits set forth in Section 4F of this Agreement.

D. Termination Without Cause. This Agreement may be terminated without cause by THE SCHOOL BOARD upon one hundred twenty (120) days written notice to the GENERAL COUNSEL EMERITUS. In such case, the GENERAL COUNSEL EMERITUS shall be entitled to the termination benefits set forth in Section 4F of this Agreement. In addition, THE SCHOOL BOARD shall pay to the GENERAL COUNSEL EMERITUS the sum of One Hundred Fifty Thousand Dollars (\$150,000) subject to applicable rules and judicial decisions.

E. Termination for Unsatisfactory Performance. THE SCHOOL BOARD may dismiss the GENERAL COUNSEL EMERITUS during the term of this Agreement for the unsatisfactory performance of his duties. THE SCHOOL BOARD shall be the sole judge of the GENERAL COUNSEL EMERITUS'S unsatisfactory performance. In such case, the GENERAL COUNSEL EMERITUS shall be entitled to the termination benefits set forth in Section 4F of this Agreement.

6. ENTIRE AGREEMENT. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the

matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

7. NOTICE. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To THE SCHOOL BOARD: Chair
The School Board of Broward County, Florida
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301

To EDWARD J. MARKO: Edward J. Marko
The School Board of Broward County, Florida
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301

8. ASSIGNMENT. This Agreement shall inure to the benefit of, and shall be binding upon, THE SCHOOL BOARD, its successors and assigns, and the GENERAL COUNSEL EMERITUS, his heirs and personal representatives, but may not be assigned by the GENERAL COUNSEL EMERITUS.

9. SEVERABILITY. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unlawful, unenforceable or void in any respect, the invalidity, illegality, unenforceability or unlawful or void nature of that provision shall not effect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

10. APPLICABLE LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

11. PARAGRAPH HEADINGS. The paragraph headings contained herein are for reference only and shall not in any way affect the meaning or interpretation of this Agreement.

12. AUTHORITY. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF the parties hereto have hereunto signed their names and affixed their seals at Fort Lauderdale, Broward County, Florida, this _____ day of _____, 2010.

ATTEST:

(Corporate Seal)
THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

ATTEST:

By _____
Jennifer Leonard Gottlieb, Chair

James F. Notter, Superintendent of
Schools

Approved as to Form and Legal Content:

School Board Attorney

FOR EDWARD J. MARKO

Joanne C. Fritz
Witness
[Signature]
Witness

[Signature]
Edward J. Marko

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by Edward J. Marko who is personally known to me or who produced N/A as identification and who did/did not first take an oath this 2nd day of November, 2010.

My Commission Expires:

Joanne C. Fritz
Signature – Notary Public

Joanne C. Fritz
Notary's Printed Name

Notary's Commission No.

(SEAL)

