



MEMORANDUM OF UNDERSTANDING

This document shall constitute a Memorandum of Understanding (MOU) between The Teachers Association of Lee County (TALC) and The School District of Lee County (SDLC) relating to clarification of and changes to terms and conditions of employment included in the Collective Bargaining Agreement (CBA).

The parties involved desire to enter into an agreement that addresses the immediate needs and interests of students and instructional staff relative to the coronavirus (COVID-19) pandemic.

TALC and District bargaining teams met to discuss interests and options. Bargaining sessions were held on the dates below in the Caloosahatchee Room at the Lee County Public Education Center.

- July 28, 2020 from 4:30 p.m. to 9:30 p.m.
- July 29, 2020 from 4:30 p.m. to 9:30 p.m.
- July 30, 2020 from 4:30 p.m. to 9:30 p.m.
- August 4, 2020 from 4:30 p.m. to 7:30 p.m.
- August 6, 2020 from 5:00 p.m. to 8:30 p.m.

Bargaining sessions were limited to in person participation by the bargaining teams due to health, safety, and welfare concerns. Bargaining sessions were livestreamed on the District YouTube channel. Video of bargaining sessions will remain published until ratification and Board approval of this Memorandum of Understanding (MOU). Minutes will be posted on the District website once approved by the bargaining teams or the TALC Labor/Management Committee.

The bargaining teams ultimately reached consensus on the items listed below. Emergency implementation began immediately following tentative agreement on each item. Ratification by bargaining unit members and Board approval are pending.

(1) SAFE AND SECURE CONDITIONS

(a) Cleaning Supplies: The District will ensure that each school or worksite has adequate cleaning supplies. Instructional staff will not be required to deep clean classrooms, however cleaning supplies will be available for instructional staff and students to keep assigned classroom(s) and work areas clean. Cleaning supplies



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will be available for all employees to use to assigned classroom(s) and work areas clean.

(b) Cleaning Procedures: The District will follow Centers for Disease Control (CDC) and Florida Department of Health (FDOH) guidelines on how to appropriately disinfect schools and worksites, if a student or employee is symptomatic and/or COVID-19 positive. Based on these guidelines, the District will develop procedures and a schedule for increased routine cleaning, disinfection, and proper sanitization of facilities and equipment. Areas where students interact with Health Services staff, including School Nurses and Clinic Assistants, will be cleaned after each student visit.

(c) Social Distancing: The District will establish protocols to facilitate compliance with CDC and FDOH guidelines for physical distancing while traveling through the building, including during arrival, dismissal, and transitions between classes. These protocols may include, but are not limited to; signage and physical markings, increased monitoring and security, and limited and/or staggered transitions.

(1) Class Size: If possible, class sizes for face to face instruction will be reduced in a manner that facilitates compliance with CDC and FDOH guidelines for social distancing. All attempts will be made to structure class sizes in a manner that will facilitate compliance with CDC and FDOH social distancing guidelines. If an employee needs assistance with social distancing in their classroom, they may make a written request to their immediate supervisor for support and assistance. Immediate supervisors shall consider requests and provide a written response to the employee. The TALC Labor/Management Committee may review situations where there continues to be a concern about social distancing.

(2) Seating Charts: Instructional staff will be required to maintain student seating charts in order to facilitate contact tracing and provide notification to exposed individuals.

(d) Professional Development: The District will provide job related training and professional development for employees covering: proper safety protocols; appropriate use of safety equipment and supplies; de-escalation of situations where students refuse to follow safety protocols; and, appropriate responses to other unique situations resulting from COVID-19, including but not limited to: reporting and addressing students with suspected cases, student and employee privacy rights, and student engagement and attendance.



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(e) Safety Equipment: The parties recognize the wearing of masks and use of other Personal Protective Equipment (PPE) are an important part of preventing the spread of COVID-19. The District is mandating the wearing of masks and the following will apply:

(1) District Required PPE: Cloth masks and other PPE are considered proper and necessary safety equipment. An employee who fails to use PPE as directed may be subject to discipline. If an employee forgets or misplaces required PPE, no disciplinary action will be taken against the employee.

(2) District Provided PPE: A cloth mask will be provided to all employees. Face shields will be provided to instructional staff, if requested. PPE will also be provided to employees for use by students in the employee's care.

(3) Proper Use of PPE: Cloth masks and other PPE should be worn in a manner consistent with the District guidelines, included in the Safe Reopening Plan and Board Policy. Face shields are not an appropriate substitute for a cloth mask and should be worn in addition to a cloth mask.

(f) Student Discipline: Employees should make a reasonable attempt to enforce student adherence to hygiene practices, social distancing, and other safety protocols. Employees shall not be disciplined or held responsible for: reasonable enforcement of safety protocols; the actions of students or parents/guardians, including those who refuse to follow instructions to practice safety protocols; COVID-19 cases traced to their classroom; or, compliance with curriculum requirements that cannot reasonably be followed due to social distancing requirements, or worksite, school, or class closures.

(g) Visitors: The District shall limit non-essential school, work site, and classroom visitors. Any visitors who are deemed essential must comply with all safety protocols. TALC Representatives, other than the school or site representative, have the right to visit schools. TALC will limit visits to each school or work site to no more than two TALC Representatives at any one time and will schedule visits in advance with immediate supervisors, except in an emergency. Limited access will remain in place for the duration of this MOU or until the parties agree it is safe to revert to the status quo, whichever occurs first.

(h) Emergency Plans: The District will update emergency plans and contact lists, and establish procedures for students and staff who have come to school with COVID-19 symptoms or present symptoms while at school/work, including but not limited to the following:



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(1) Symptom Screening (Students): Establish and implement procedures and training to address and identify students who appear symptomatic.

(2) Symptomatic Students: Establish and implement procedures to separate symptomatic and/or COVID-19 positive individuals from the school population. Each school shall identify a designated isolation room to be used for isolation of symptomatic and/or COVID-19 positive students. School or site-based administrators will ensure symptomatic and/or COVID-19 positive students are sent home as soon as possible.

(3) Clinic Visits: All clinic visits should be scheduled, if possible, to prevent gatherings of students waiting to see the Clinic Assistant or School Nurse. Instructional staff will not be required to call ahead before sending a student to the clinic for an emergency or if the student's health plan includes regularly scheduled visits.

(4) Isolation Room: School-based administrators will work with Health Services on plans for isolation rooms. Professional development will be provided to employees assigned to work in isolation rooms or provide back-up coverage. Additional PPE will be provided to employees assigned to work in isolation rooms. TALC Labor/Management will have the opportunity to review isolation room plans and may review situations where there is a concern about a implementation of the isolation room plan.

(i) Health and Hygiene Education: The District will encourage and communicate health and safety practice to parents/guardians, students, and employees. District established hygiene practices, social distancing, and other safety protocols will be taught to students and embedded in daily routines.

(j) Mental Health Supports: The District will implement a plan to support the wellbeing and mental health of students and employees and will provide adequate staffing to administer this plan. The plan will include sharing information regarding the Employee Assistance Program (EAP) and tele-health benefits available to employees.

(1) Student Visits: School counselors and other non-classroom instructional staff will be provided PPE to be stored in their offices and will be allowed to use conference rooms and other meeting space when meeting with students to allow for social distancing.



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(2) PERSONAL PROTECTION: An employee diagnosed with COVID-19 may pose a significant risk of substantial harm to the health or safety of other employees, students, and visitors.

(a) Symptom Screening (Employees): Employees will be required to sign-in to Lee Clock each day prior to starting work and will be asked medical questions that are permissible during a public health emergency, but would otherwise be prohibited. If Lee Clock is not available prior to starting work, immediate supervisors may ask employees these medical questions.

(b) Symptomatic Employee: Immediate supervisors may send employees home, if they report or appear to be experiencing symptoms associated with COVID-19.

(c) Notice to District and Local Health Officials: Immediate supervisors shall immediately notify Health Services, Human Resources, and/or the local office of FDOH, if an employee reports they have been diagnosed with COVID-19.

(d) Notice of Exposure: Immediate supervisors shall maintain confidentiality and will inform employees and parents/guardians of any possible exposure to an employee diagnosed with COVID-19. Immediate supervisors shall not provide identifying information, including the employee's name or other information that could be reasonably used to determine the employee's identity.

(3) ASSIGNMENT OF DUTIES: In addition to requesting leave, employees may request assigned duties to be performed remotely. A return to work intent and instructional model preference form will be distributed to all instructional staff.

(a) Priority: The District will work to accommodate employee requests for assigned duties to be performed remotely. Priority will be given to employees who qualify for accommodations under the Americans with Disabilities Act (ADA), followed by employees who are at an increased risk, as defined by the CDC, or employees who are caregivers to a family member at an increased risk, and employee's based on stated preference.

(b) Consideration: The District will take into consideration certification, seniority and/or contract status, and position availability based upon student need, in order to ensure the correct and proper operations of the District.

(c) Support and Assistance: The District will provide adequate support and assistance, including equipment and training to employees working remotely. If possible, professional development will be offered electronically.



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(1) Online Instruction: Best practices for improving student participation, delivery of content, and student support will be shared with instructional staff assigned to online instruction. The District will offer professional development to support effective online instruction.

(2) Certification: Employees are responsible for maintaining all job-related certifications, endorsements, and other job-related qualifications associated with specific program requirements. The District will offer professional development for instructional staff who seek to obtain or maintain professional certification necessary for their continued employment.

(d) Right of First Refusal: Employees will be guaranteed the opportunity to return to their same worksite and position, at a date to be determined, in accordance with the terms of the CBA.

(e) Emergency Change in Assigned Duties: If a change in assigned duties is required due to an emergency, employees will be notified of their work location, whether in the building or virtually, as soon as possible.

(f) TALC Labor/Management Committee: The TALC Labor/Management Committee may review situations where there is a concern about an employee's assigned duties or work location.

(4) INSTRUCTION

(a) Online Instruction: All instructional staff providing online instruction will have access to District networks, equipment, software, and online platforms necessary for online instruction and the performance of other assigned duties.

(1) Lee Virtual School: Lee Virtual School students will be enrolled for the first semester. Instructional staff transferred to Lee Virtual School will be required to complete a Personnel Action Form (PAF) for record keeping purposes. Instructional staff assigned to Lee Virtual School will be guaranteed a right of first refusal to the position and location they were assigned, prior to the distribution of the Intent to Work and Instructional Delivery Method Preference Form. Instructional staff assigned to Lee Virtual School will follow existing processes and procedures regarding online instruction found in the school handbook.

(2) Lee Home Connect: Lee Home Connect students will remain attached to their current school. Instructional staff assigned to these students will



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maintain a regular work schedule and workload that mirrors the pace and rigor of traditional face to face instruction in a brick and mortar classroom.

(a) Worksite: Instructional staff assigned to Lee Home Connect should provide instruction from their physical classroom, if possible.

(b) Work Day: Instructional staff will not be required to perform duties beyond the standard work day or be required to utilize software or online platforms not provided by the District.

(c) Office Hours: Instructional staff assigned to Lee Home Connect will not be required to provide alternate office hours outside of the standard work day.

(d) Student Guidelines: Instructional staff assigned to Lee Home Connect will be provided a copy of district-wide communication to students and parents/guardians, including guidelines on cyber safety, online etiquette and ethics, cyber bullying, protecting privacy, participation and attendance, and technical support.

(e) Best Practices: Best practices for improving student participation, delivery of content, and student support will be shared with instructional staff assigned to Lee Home Connect.

(3) Employee Quarantine: If required to quarantine, instructional staff will not be responsible for securing a guest teacher for their classroom. Instructional staff who are required to quarantine will not be asked to return to a school or worksite if a guest teacher is not available. Employees may be required to work remotely, if they are not symptomatic or sick.

(b) Academic Freedom: Instructional staff have the autonomy to determine if an assignment is required for a grade and how to assign grades to students participating in online instruction. Students who miss instruction will be treated the same regardless of instructional delivery model.

(1) Student Participation and Parent/Guardian Contact: If a student consistently fails to participate in online instruction, instructional staff will only be required to make two attempts to contact the student's parent/guardian through the platform of the employee's choice. If after two attempts, instructional staff is not able to reach a student's parent/guardian, they must notify administration at their school or worksite who will address the situation with the parent/guardian.



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(c) Technology: The parties agree that technology use is common in the workplace and in school settings. The parties seek to minimize any potentially negative impacts to employees resulting from the transition to online instruction.

(1) Notice: Every classroom must have a posted notice that District issued technology is being used for online instruction, including equipment that may allow for video and audio recording.

(2) Professional Development

(a) Privacy: Prior to the first day of online instruction, instructional staff must be trained on compliance with applicable student and personal privacy laws, including but not limited to the Health Insurance Portability and Accountability Act (HIPAA) and the Family Educational Rights and Privacy Act (FERPA).

(b) Data Security: Instructional staff must be trained on proper use of District provided equipment, how data is stored, and who has access to data.

(3) Working Conditions

(a) Remote Work: Instructional staff who are performing assigned duties remotely or providing online instruction from their school may have inadvertent lesson interruptions or distractions, including background noise or conversation with others. Immediate supervisors and employees will operate with compassion and grace.

(b) Equipment (District): District provided equipment, including laptops, will be used for online instructional. Other devices may only be used at the request of instructional staff and may be removed from the classroom upon written request.

(c) Equipment (Personal): Teachers will not be required to use their personal phone or email to contact parents, but will be provided access to Google Voice and other resources.

(d) Liability: If a parent/guardian brings forth a charge or civil suit against an employee related to lessons, educational materials, and/or discussions that arise during online instruction, the District will provide legal support to the employee provided the employee's conduct is in accordance with all applicable laws.

(1) District Property: Instructional staff will not be subject to discipline or otherwise held responsible for the actions of



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students or parents/guardians in regard to: damage to District equipment; functionality of technology or if connectivity is interrupted or otherwise insufficient to facilitate distance learning; privacy issues; oversight of children at home; or improper use of technology.

(e) Discipline (Students): If a student uses technology to record an employee, without the employee's knowledge or permission, a recommendation for discipline will be made in a manner consistent with the Student Code of Conduct.

(4) Performance Evaluation: Under no circumstances will technology be used to record instructional staff or will recordings be used as part of a performance evaluation without advanced knowledge and written consent of the employee.

(5) Discipline (Employees): If disciplinary action is being considered for an employee, recommendations will be based upon the totality of the circumstances rather than solely upon recordings made by use of technology.

(5) WORK SCHEDULE: Immediate supervisors will determine work schedules and assigned duties for their campuses that do not infringe on contractually protected times. In the event a need arises to alter contractually protected times, the district will consult with TALC before any decision or offer to an employee or group of employees is made.

(a) Pre-School Days: The Instructional Calendar Committee recommended, and the Board approved, an amended instructional calendar for FY21 (2020-2021 school year). Included in this recommendation were additional Pre-School Days to accommodate new professional development and preparation required for FY21 (2020-2021 school year). The parties support this recommendation and agree to increase the pre-school week from five (5) days to nine (9) days.

(b) Mandatory Attendance: Mandatory attendance at meetings, including faculty meetings and Professional Learning Community (PLC) meetings, may be necessary. The parties agree to follow the CDC guidelines for social distancing to the greatest extent possible. Instructional staff will be provided a virtual option for any mandatory professional development or meetings in order to minimize contact among staff members.



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(1) Open House: Schools holding an open house or back to school event will use a virtual or drive-through format for all students, except Pre-K and Kindergarten.

(2) Parent/Teacher and Student Led Conferences: Whenever possible, parent/teacher conferences and student led conferences will be held virtually. Any in-person conferences must follow the Safe Reopening Plan.

(c) Make-up Due to COVID-19: If instructional days and time are lost due to COVID-19, the District will follow the Florida Department of Education (FDOE) guidelines for waivers. Any change to the calendar and/or workday will be negotiated with TALC.

(6) TEMPORARY SCHOOL OR WORKSITE CLOSURE: If a school or worksite closes temporarily due to COVID-19, the parties agree that identified essential personnel may need to report to the school or worksites during the closure. CDC and FDOH guidelines will be followed, if employees are required to report to a school or worksite that is closed for sanitization.

(a) Assigned Duties: Temporary changes in assigned duties may occur. If an employee is unable to access professional development materials or any other information necessary to successfully complete assigned duties, immediate supervisors will work with employees to determine appropriate alternatives to ensure employees have the support and assistance necessary to complete their assigned duties.

(b) Work Schedule: The parties agree that for the duration of a school or worksite closure, employees may be required to report to work in person to complete assigned duties associated with preparing the location for reopen. Immediate supervisors will determine staggered scheduling for duties that can only be performed at a worksite. Immediate supervisors will notify employees of emergency changes to work schedules in advance, so employees can adjust their schedules accordingly to meet the needs of students.

(7) PERFORMANCE EVALUATION

(a) Manager's Rating: Employees will not receive a negative manager's rating or be subject to discipline for a student's failure to access, participate, or attend online instruction.

(b) Student Performance Data



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(1) FY20 (2019-2020 school year): Student performance data for FY20 (2019-2020 school year) performance evaluations does not exist and will not be used in future performance evaluation or regarding future employment decisions.

(2) FY21 (2020-2021 school year): Student performance data used for FY21 (2020-2021 school year) performance evaluations will be determined by the TALC Labor/Management Committee, based upon the recommendation of the TALC Evaluation Committee and in accordance with FDOE requirements

(8) COMPENSATION: The parties agree that it is necessary to mitigate potential interruption of pay and benefits deductions associated with the change in the instructional calendar by maintaining payroll calendars. Employees will not experience an interruption in pay or benefits due to this change and will receive their first paycheck of FY21 (2020-2021 school year) in accordance with payroll calendars in place prior to Board approval of the amended instructional calendar. Employees must start on the first day of their work year in order to receive a paycheck on the first scheduled date. The parties agree to discuss any need to adjust dates for payment of incentives and bonuses, supplements, or other non-standard pay in TALC Labor/Management prior to implementation.

(9) LEAVE: The parties agree that the District's Family First Corona Response Act (FFCRA) flowchart will be utilized to assist employees in determining if they qualify for paid leave related to COVID-19. Human Resources will provide all available assistance to employees who request leave and all forms will be made readily available to employees to expedite the processing of leave requests.

(a) Family Medical Leave Act (FMLA): COVID-19 is a serious health condition that may result in an employee being unable to perform the essential function of their job. COVID-19 may be a qualifying condition under FMLA, which ensures continuing employment rights and insurance coverage for eligible employees. Eligible employees shall be entitled to a total of twelve (12) work weeks of leave during any twelve (12) month period for personal treatment or to care for a qualifying family member. Employees must submit a request and medical certification issued by a health care provider on the appropriate District forms required by School Board Policy 5.23 (Family and Medical Leave).



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(b) Families First Coronavirus Response Act (FFCRA): The recently enacted FFCRA provides employees with paid sick leave or expanded family medical leave for specified reasons related to COVID-19. Employees may be eligible for the following:

(1) Employee (Self - Leave): Two (2) weeks (up to eighty (80) hours) of paid sick leave at the employee's regular rate of pay, if the employee is unable to work because the employee is quarantined (pursuant to Federal, State, or local government order), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis.

(2) Employee (Caregiver - Leave): Two (2) weeks (up to eighty (80) hours) of paid sick leave at two-thirds (2/3) the employee's regular rate of pay, if the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to Federal, State or local government), or to care for a child (under eighteen (18) years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19, and/or the employee is experiencing a substantially similar condition as specified by the Secretary of US Health and Human Services (HHS), in consultation with the Secretaries of the US Department of the Treasury (USDT) and US Department of Labor (USDOL).

(3) Employee (Caregiver - Extended Leave): Up to an additional ten (10) weeks of paid expanded family and medical leave at two-thirds the employee's regular rate of pay, if an employee, who has been employed for at least thirty (30) calendar days, is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.

(c) Other Leave

(1) Temporary Duty (COVID-19): If an employee is required to quarantine due to a work-related exposure, and the above leave has been exhausted or is not applicable, the District will provide up to ten (10) days of temporary duty/administrative leave to the employee.

(2) Sick Leave (COVID-19): If an employee becomes ill with COVID-19 while quarantining due to a work-related exposure, the employee can request a continuation of temporary duty, if all FFCRA leave has been exhausted or is not applicable.

(d) Privacy and Confidentiality



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(1) Employee Medical Records: Highly publicized public health emergencies naturally lead to parents/guardians, employers and colleagues' interest in knowing who has been diagnosed or is seeking a diagnosis, however protected health information (PHI) must remain private and confidential. Employee medical records include PHI and are exempt from public inspection; see Florida Statute 119.071. Parents/guardians do not have a right to know an employee's medical history or current medical status. The disclosure or use of information not available to members of the public is strictly prohibited and may be a violation of the standards of conduct for District employees; see Florida Statute 112.313(8).

(2) Release of Medical Records: Employee medical records and information about an employee's medical condition may not be furnished to or discussed with any person other than the employee, the employee's legal representative, or health care providers involved in the employee's care or treatment, except upon written authorization from the employee or court order; see Florida Statute 456.057(7) and the Health Insurance Portability and Accountability Act (HIPAA).

(3) Submission of Medical Records: Employees must notify their immediate supervisors before an absence from work, but are not required to disclose any detailed information related to their medical condition to their immediate supervisor. Any documentation required for approval of a request for leave may be submitted to the employee's immediate supervisor or directly to Human Resources. Employee medical records, including any maintained in an employee's personnel file, are confidential and exempt from public inspection; see Florida Statute 1012.31.

(e) Absenteeism: The parties agree that there is no substitute who can replace a regular employee in meeting the needs of the students served by the District. Communication between employees and their immediate supervisors is of paramount importance in maintaining the correct and proper operations of the District. If an employee follows proper procedures for requesting available leave and the request is approved, the employee will be held harmless for purposes of performance evaluation and discipline. Employees will not be retaliated against for use of approved leave.



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(10) PARTICIPATORY DECISION MAKING: The parties agree to further establish, in writing, best practices and procedures for monitoring and enforcing safety protocols, and will revisit the subjects addressed in this MOU as necessary. Employee, parent/guardian, and student feedback will be considered. Updated guidelines issued by the CDC and FDOH will be reviewed and discussed, as well as any potential changes in the law or legal requirements. changes of the course or severity of the pandemic; and the evolving needs of parents/guardians, students, and employees. Subsequent agreements and understandings germane to the reopening of schools will be incorporated herein.

(a) Waiver: No employee will be required to sign a waiver to work or participate in activities related to their job.

(b) Bargaining Related Committees: The parties also agree to utilize to the fullest extent the contractually established committees in continuing the collaborative work to solve problems during the COVID-19 pandemic:

- (1) TALC Labor/Management Committee**
- (2) Instructional Evaluation Committee**
- (3) Instructional Calendar Committee**
- (4) Insurance Task Force**
- (5) District Safety/Security Committee**
- (6) Special Instructional Labor/Management Committee**
- (7) School-based Calendar Committee**

(11) DURATION AND ACCEPTANCE: This agreement supersedes all prior MOUs between the parties, except all other provisions of the CBA that remain in full effect. In the event of a conflict between this MOU and the CBA, the CBA will prevail unless mutually agreed upon by the parties.

(a) Modification: This MOU may not be amended except by a written agreement, signed by the parties. If executive orders, federal or state regulations, or other legal mandates create an anticipated impact to this MOU or the CBA, the parties will return to further negotiate a shared response to the impact.

(b) Effective: This agreement will be effective upon signing and will remain so until: ratification of a subsequent collective bargaining agreement; June 30, 2021, which is the end of FY21 (2020-2021 school year); or, agreement between the parties that conditions related to COVID-19 have improved to the extent that language in this MOU is no longer necessary; whichever comes first.



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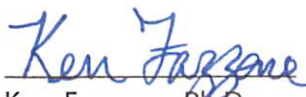
Agreed to:

The Teachers Association of Lee County



Kevin Daly
President

8/18/2020
Date


Kerr Fazzone, Ph.D.
Chief Negotiator

8/18/2020
Date

The School District of Lee County



Gregory K. Adkins, Ed.D.
Superintendent

8/18/2020
Date



Angela J. Pruitt, Ph.D.
Chief Negotiator

8/18/2020
Date