

**CONTRACT OF EMPLOYMENT OF
GENERAL COUNSEL**

THIS AGREEMENT, is made as of the 22nd day of December, 2016 by and between the Superintendent of Schools (hereinafter, the "Superintendent") for and on behalf of the City School District of the City of Buffalo (hereinafter, the "District"), with offices located at 801 City Hall, Buffalo, New York, and Nathaniel J. Kuzma (hereinafter "Mr. Kuzma").

WITNESSETH THAT :

WHEREAS, the District's Board of Education (hereinafter "Board") has offered to employ Mr. Kuzma in the position of General Counsel in the City School District of the City of Buffalo (hereinafter, the "District"), subject to the negotiation of a contract of employment by the Superintendent containing the terms and conditions of said employment; and

WHEREAS, Mr. Kuzma has accepted said offer of employment, and

WHEREAS, the Superintendent and Mr. Kuzma have mutually agreed upon such terms and conditions and that they should be reduced to writing in order to avoid any misunderstanding as to the nature of the employment relationship created hereby; and

WHEREAS, the parties have mutually agreed upon the following terms and conditions relative to Mr. Kuzma's employment by the District as the General Counsel;

NOW THEREFORE, in consideration of the agreements hereinafter set forth and other good and valuable consideration, the parties agree as follows:

1. Term of Employment.

a. Mr. Kuzma's term of employment shall commence on January 3, 2017 hereunder, and shall be "at will" and not subject to a specific duration.

b. The Superintendent may from time to time specify a termination date of this Agreement, to the extent permitted by law. Any change in the term of the Mr. Kuzma's employment shall be in the form of an Amendment to this Agreement, shall be upon the same terms and conditions as herein set forth unless otherwise agreed in writing by the parties; and it shall not be considered that the Superintendent and Mr. Kuzma have entered into a new Agreement, unless expressly stated in a writing signed by both parties hereto, in the format appended hereto as Attachment A.

2. Mr. Kuzma's Duties and Responsibilities.

a. The duties and responsibilities of Mr. Kuzma's position are listed on Attachment B hereto, and include the performance of other duties of a similar nature or level as may be assigned.

b. The duties and responsibilities of Mr. Kuzma shall also include implementation and enforcement of regulations and by-laws enacted or adopted by the Board to effectuate and fulfill its statutory responsibilities.

3. **Certification.** Mr. Kuzma shall possess a valid certificate or license as may be required by and from the State of New York during the term of his/her employment hereunder.

4. **Direction and Supervision.** Mr. Kuzma shall serve under the direction and supervision of and shall report directly to the Associate Superintendent for Human Resources.

5. **Compensation.**

a. Mr. Kuzma's initial base annual salary hereunder shall be at the rate of one-hundred and sixty thousand dollars (\$160,000.00) per year to be paid in equal installments in accordance with the Regulations of the Board governing salary payment to other District administrative employees. All governing salary payment to other District administrative employees. All amounts stated herein as being "annual" compensation or amounts paid "annually" shall be prorated for the time period during which Mr. Kuzma is actually employed hereunder.

b. Mr. Kuzma's compensation may be adjusted on or about the first day of July for any period covered by this Contract, as follows: If the evaluation received by Mr. Kuzma pursuant to Section 7 of this Agreement is satisfactory in the opinion of the Board, then such salary may be increased by an amount to be determined by the Board in its discretion. Any increases referenced in this Section 5b shall at all times relevant be implemented only as permitted by the Buffalo Fiscal Stability Authority ("BFSA"),

including but not limited to any wage freeze enacted by the BFSA after the effective date of this Agreement.

c. Any increase in Mr. Kuzma's annual salary shall be expressed in the form of a resolution adopted by the Board; and such memorandum should direct all relevant departments to adjust Mr. Kuzma's salary accordingly. It shall not be considered that the Board and Mr. Kuzma have entered into a new agreement, or agreed to establish a specific termination date of this Agreement, unless such is expressly stated in a writing signed by both parties hereto.

6. **Performance Evaluation.** Mr. Kuzma will be evaluated by the Associate Superintendent for Human Resources at least annually. The evaluation shall be based upon Mr. Kuzma's performance of the duties and responsibilities of the position hereunder. The evaluation shall be reduced to writing and shall be delivered to Mr. Kuzma by the Superintendent.

7. **Other Benefits of Employment.** In addition to the annual compensation specified herein, the General Counsel shall be entitled to receive the following benefits:

a. **Vacation Leave and Holidays.** The work year shall consist of twelve (12) months, from July 1 through June 30, during which time Mr. Kuzma shall be entitled to receive twenty-six (26) vacation leave days in addition to the holidays annually included in the official District Main Office calendar. The Superintendent may credit Mr. Kuzma with the full number of vacation days annually on or about July 1 of each year; provided, however, that notwithstanding the method chosen by the Superintendent, it is understood that

such days are earned on a pro rata basis over the course of a year. Upon request to the Superintendent, Mr. Kuzma will be permitted to carry over a maximum of ten (10) days of current unused vacation each year; provided further that the total amount of vacation hereunder may not exceed thirty-six (36) days. Upon his/her request, Mr. Kuzma will have the option of being paid annually for up to ten (10) unused vacation days at the rate of 1/240th of his/her then current annual salary. Upon termination of this employment, Mr. Kuzma will be compensated consistent with the District's usual practice for accrued, but unused, vacation leave at his/her then current salary rate.

b. Sick Leave. Upon employment under this Agreement, Mr. Kuzma shall be entitled to twelve (12) sick leave days. On each anniversary date of the effective date of this Agreement (or July 1 in the discretion of the Superintendent), Mr. Kuzma shall be credited with an additional twelve (12) sick leave days. Mr. Kuzma shall be entitled to accumulate unused sick leave during the period of employment pursuant to this Agreement with the District up to a maximum of 220 days. At the time the employment is severed, Mr. Kuzma shall be entitled to be paid an amount equal to the number of unused sick leave days so accrued, times 1/3, times 1/240th of Mr. Kuzma's final salary.

c. Short-term Disability. After a minimum of one year of employment hereunder, Mr. Kuzma will be eligible to receive annual short term disability leave. Said leave allows for continuation of base salary plus benefits when Mr. Kuzma cannot perform his/her work duties due to a serious, incapacitating health condition, defined for the purpose of this agreement as an illness, injury, impairment or physical or mental condition involving one of the following: 1) in-patient care in a hospital, hospice or residential medical care

facility; 2) continuing treatment by a health care provider, or 3) pregnancy. Mr. Kuzma will be required to provide documentation of the nature of the incapacitating condition from a certified/licensed health care provider.

The maximum annual short term disability leave is six (6) weeks. Mr. Kuzma will be required to exhaust all accumulated sick leave before becoming eligible to use short term disability leave. Any leave remaining after a period of short term disability leave hereunder, shall be available for use only within the same fiscal year and cannot be accumulated. At the time the employment relationship is severed, Mr. Kuzma shall not be compensated for any unused short term disability leave.

d. Paid Personal Leave. Mr. Kuzma shall be entitled to take up to two (2) days of paid personal leave annually. Unused personal leave will be added to Mr. Kuzma's accumulated sick leave, provided that the maximum permissible accumulation of 220 days is not exceeded thereby.

e. Health Insurance.

(i) *As an Active Employee:* Mr. Kuzma will have the option of enrolling in one of the group health plans offered by the District. To the extent permitted by the applicable insurance carrier, coverage will be effective the first day of the month following the first day of employment. The District shall pay 80% for the plan elected, and Mr. Kuzma shall pay 20% thereof (the "Employee Contribution"). The premium rates for such coverage may change from time to time. The Employee Contribution shall be made by payroll deduction unless otherwise agreed. The District may offer to process the Employee

Contribution through a pre-tax program, which Mr. Kuzma may elect, if desired. Mr. Kuzma is responsible for any applicable co-pays or deductibles under the plan selected. The District will pay the full cost of Mr. Kuzma's participation in the District's Supplemental Benefits Plan for employees excluded from collective bargaining, so long as the District elects to maintain such plan.

(ii) *In retirement:* To qualify for retiree health insurance coverage pursuant to the District's then current plan and as set forth below, Mr. Kuzma must have completed ten (10) consecutive years of active service with the District and be eligible for retirement under the New York State Employees' or Teachers' Retirement System. "Active Service" is defined as all continuous service with the District as an employee, or as an employee of the City of Buffalo or any City of Buffalo agency, provided that service with such agency is equivalent to City and/or Board service. Active Service does not include any period of unpaid leave.

If Mr. Kuzma so qualifies, he/she shall be entitled to receive health insurance benefits in retirement as follows. Mr. Kuzma will be responsible for all applicable co-payments and deductibles of the chosen plan, and will also be subject to any changes made by the insurance carrier. The District will be responsible for 100% of the premium cost of such plan, and reserves the right to change carriers or benefit plans in its discretion. Mr. Kuzma will be eligible to participate in the District's "open-enrollment" should he/she wish to change plans. Access to coverage shall not be deemed a guarantee of specific benefits. At the option of the District, a married retiree with no dependents may be provided with two single coverages (for the retiree and his/her spouse) rather than a family plan. Mr. Kuzma

shall be required to update the District in writing in the event of change of address or the death or divorce of a spouse. The surviving spouse of a retiree shall be required to notify the District in the event of the death of the retiree, and will be afforded the opportunity to exercise his or her COBRA rights.

Mr. Kuzma and his/her spouse (if applicable) must enroll in Medicare Part A and Part B when they become eligible and maintain this status throughout their retirement. It is understood that Mr. Kuzma must report their Medicare status to the District's Benefits office by providing a copy of their cards and by completing any application to update their status.

It is understood that Mr. Kuzma must keep current information on file with the District through its Benefits Office, including, but not limited to:

- Current address, telephone and e-mail;
- Up-to-date dependents – all changes in eligibility must be reported, in writing on a form provided by the Board, within 30 days of the event.
- Participation in Medicare Part A and Part B, which must be continuous from the date of eligibility.

f. Waiver of Medical Coverage. Provided that Mr. Kuzma can produce documentation which certifies that he/she has coverage for health care expenses through another source, Mr. Kuzma shall be eligible for payment of up to One Thousand Two Hundred Dollars (\$1,200) in a separate check payable in the month of January for participation during the prior calendar year. The amount will be pro-rated to correspond to

the number of months Mr. Kuzma participated during the previous calendar year. This benefit is not available during retirement.

For the purpose of this waiver, the plan year is January through December. Eligibility for the incentive will cease when Mr. Kuzma becomes enrolled in the District's health care programs under Section 7 of this Agreement. If Mr. Kuzma elects to enroll in the District's health care program, the amount of the incentive will be proportionately reduced (\$100 per month) based on the number of months he/she participated in the District's waiver program prior to said re-enrollment.

g. Life Insurance

The District will pay the full cost of the annual premium for life insurance covering Mr. Kuzma under the plan in effect for all central office employees, and any successor plan in effect during the term of this Agreement or any extension thereof.

h. New York State Employees' Retirement System Participation

Mr. Kuzma agrees to remain a member of the New York State [Employees'/Teachers'] Retirement System, and shall continue as a participant in the system during the term of this Agreement. If the New York State Employees' Retirement System laws and regulations preclude Mr. Kuzma's membership, then the District will pay an amount equal to the product of Mr. Kuzma's compensation specified in Section 5a of this Agreement, and the New York State Employees' Retirement System contribution rate as salary or, at his/her election, as a contribution to a Welfare Benefit Plan or IRC Code 457 or 403b Plan.

i. Tax Sheltered Annuities

Mr. Kuzma may participate in the District's tax sheltered annuities program.

The cost of administering the program shall be borne by the District.

8. Transportation and Expenses.

a. Membership in Professional Organizations. Mr. Kuzma shall be entitled to reimbursement for annual dues for membership in appropriate professional organizations (including registration fees to maintain professional certification) up to a maximum of Two Thousand Dollars (\$2,000.00).

b. Travel. The District will reimburse Mr. Kuzma for his/her official travel outside the District's geographic boundaries requested or required in writing by the District.

c. Professional Expense Reimbursement. Reasonable and necessary expenses incurred by Mr. Kuzma in connection with attendance at professional meetings approved by the Superintendent at the local, state or national level will be paid by the District upon presentation by Mr. Kuzma of an itemized account of such expenditures.

9. Other Work. Mr. Kuzma shall devote his/her full-time skill, labor and attention to the discharge of the duties of Mr. Kuzma during the term of this Contract; provided, however, that he/she may undertake consultative work, speaking engagements, writing, lecturing, or other professional duties, and obligations, with or without remuneration, provided such activities are of short term duration and further provided that

such activities do not interfere with the full and faithful discharge by Mr. Kuzma of the duties and responsibilities of the position of the General Counsel as described herein.

10. **Disability.** If, by reasons of sickness, disability or other cause beyond the control of Mr. Kuzma, he/she shall be incapacitated from rendering the services required hereunder for a period of time extending beyond his/her sick leave entitlement, the Superintendent may extend Mr. Kuzma's sick leave of absence, and if such disability continues for more than sixty (60) days beyond Mr. Kuzma's sick leave and short term disability entitlements hereunder, or if said disability is permanent, irreparable, or of such nature as to make the performance of such duties impossible, as determined by the Board, the Board may, upon the recommendation of the Superintendent, terminate this Agreement, whereupon the respective duties, rights and obligations described in this Agreement shall terminate.

11. **Termination.** The employment relationship between Mr. Kuzma and the District may be terminated by the Board, upon the recommendation of the Superintendent, without cause.

12. **Written Resignation.** Mr. Kuzma may, at his/her option, resign from employment by the District upon giving written notice of such resignation to the Board at least sixty (60) days in advance of the effective date of such resignation. Upon receipt of such notice, the Board may advance the effective date of such resignation up to the date of receipt thereof, and this Contract shall terminate and become null and void as of the ultimate effective date of such resignation as determined by this Section. Mr. Kuzma shall be

obligated, in any event, to fully perform the duties of the position of the General Counsel up to the effective date of such resignation.

13. **Termination by Agreement.** Either party may propose to terminate this Agreement upon mutually acceptable terms. In the event of such occurrence and the execution of a written termination agreement acceptable to the Board, the terms and conditions thereof shall supersede any and all terms of this Agreement, which shall become null and void upon the termination date specified in said termination agreement.

14. **Severance Payment.** If the Board acts to sever the employment of Mr. Kuzma hereunder for any reason other than his/her retirement, it will cause him/her to be paid a severance payment consisting of two weeks of his/her final salary (each day of which is to be valued at 1/240th thereof) for each year of Mr. Kuzma's overall service to the District, not to exceed three (3) months of said salary.

15. **Termination by Operation of Law.** In addition to the circumstances cited in paragraphs 11 through 13 above, this Agreement will terminate if it is determined by the Public Employment Relations Board ("PERB") that the position of General Counsel is not excluded from the right to bargain collectively pursuant to Article 14 of the New York Civil Service Law. In the event of such a determination by PERB, this Agreement shall terminate effective as of the date of such determination, and Mr. Kuzma shall no longer receive benefits or compensation under this Agreement. In the event this Agreement is terminated by operation of this paragraph 15, Mr. Kuzma may not "carry over" or "carry back" to any other employment by the District any vacation, sick or personal days from this Agreement.

If Mr. Kuzma fails to possess or maintain any certification or qualification required of his position (e.g., qualifications required by the Department of Civil Service or State Education Department), then this Contract and the employment hereunder shall immediately become null and void.

16. **Indemnification.** The District shall provide legal counsel and shall indemnify Mr. Kuzma against all uninsured financial loss arising out of any proceeding, claim, demand, suit or judgment by reason of alleged negligence resulting in bodily or other injury to any person or damage to the property of any person committed while Mr. Kuzma is acting within the scope of his/her employment or under the direction of the Superintendent, provided he/she promptly notifies the Board of such proceeding, claim, demand, suit or judgment according to its existing policy.

17. **Written Agreement.** This Agreement shall continue in full force and effect, unless otherwise terminated, modified or extended in accordance with the above specified provisions, or by another agreement in writing executed by the parties with the same formality as is this Contract.

18. **Complete Agreement.** This Contract is the entire agreement between the parties, and supersedes any and all prior agreements, whether oral or in writing.

19. **Domicile.** Mr. Kuzma shall be bound by all relevant laws, rules and regulations pertaining to domicile/residency; except where such laws, rules or regulations may be amended to require domicile/residency within the bounds of the City/District during the term or any extension of this Agreement.

20. **Severability.** This Agreement shall be governed by the laws of the State of New York and the invalidity or unenforceability of any specific provision shall in no way affect the validity or enforceability of any other provision.

21. **Waiver.** Failure of either party hereto to insist upon strict compliance with any provision of this Contract shall not be construed to be a waiver thereof.


IN WITNESS WHEREOF, the parties hereto have signed their names on the day and year written.

FOR THE DISTRICT

By: _____

Kriner Cash
Superintendent

DATED: _____

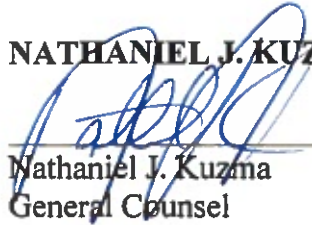


Dec. 22, 2016

NATHANIEL J. KUZMA

Nathaniel J. Kuzma
General Counsel

DATED: _____



12-22-16