

**Second Amendment  
to the  
Fairfax County Public Schools 403(b) Plan**

**WHEREAS**, Fairfax County Public Schools (the “Employer”) currently sponsors the Fairfax County Public Schools 403(b) Plan (the “Plan”); and

**WHEREAS**, the Plan was most recently amended and restated effective January 1, 2016;  
and

**WHEREAS**, pursuant to Section 8.2 of the Plan, the Employer may amend the Plan at any time; and

**WHEREAS**, the Employer, pursuant to the authority granted to it under Plan section 8.2, deems it desirable to ratify certain past administrative practices and to clarify certain provisions to ensure that the operational administration of the Plan conforms to the Plan terms; and

**WHEREAS**, the approval of the Internal Revenue Service has been sought and obtained to the retroactive effective dates provided herein;

**NOW, THEREFORE**, the Plan is hereby amended in the following respects:

1. Section 4.1 is replaced to provide as follows:

“4.1 **Loans**. Participants may obtain loans under the Plan, provided, however, that any such loans shall satisfy the requirements of Code section 72(p) and applicable Treasury Regulations and, if applicable, to the extent permitted under the terms of the applicable Individual Agreement. In determining whether a plan loan (when added to the outstanding balance of all of the borrower’s other plan loans) satisfies the requirements of Code section 72(p), all 401(a), 403(a), 403(b), and 457(b) plans of the Employer and any Related Employer shall be treated as one plan. To the extent required by the Servicemembers Civil Relief Act, if the loan was received before a period of military service (as defined by that act), the rate of interest charged during any period of military service shall not exceed a rate of 6 percent per year.

Before January 1, 2010 a Participant may obtain a loan only if: (i) there are no other loans outstanding from a Vendor, including any defaulted loan that has been deemed distributed and not fully repaid (or fully offset as part of a distribution to the Participant), including interest that accrues after the default and deemed distribution; and (ii) the loan is from an Annuity Contract or Custodial Account of a Vendor. On and after January 1, 2010 and prior to July 1, 2016, a participant was permitted to obtain a loan regardless of the existence of an outstanding loan.

Effective July 1, 2016, a Participant may have no more than five loans outstanding from any Vendor, regardless of whether from the same or different Vendors provided, however, that the Participant may not obtain a loan if the Participant has a loan from any Vendor including any defaulted loan that has been deemed distributed and not fully repaid (or fully offset as part of a distribution to the Participant).”

2. Section 6.1(a) is replaced to provide as follows:

**Eligible Rollover Contributions.** For periods prior to July 1, 2013, an Employee who is a Participant who is entitled to receive an Eligible Rollover Distribution from another Eligible Retirement Plan may request to have all or a portion of the eligible rollover distribution paid to the Plan. Effective July 1, 2013 through June 30, 2016, any Participant or Employee who is entitled to receive an Eligible Rollover Distribution from another Eligible Retirement Plan may request to have all or a portion of the eligible rollover distribution paid to any Vendor under the Plan.

Effective July 1, 2016, any Participant or Employee who is entitled to receive an Eligible Rollover Distribution from another Eligible Retirement Plan may request to have all or a portion of the eligible rollover distribution paid to the Plan, but only to a Vendor that is currently eligible to receive Elective Deferrals under the Plan. Such rollover contributions shall be made in the form of cash only. The Vendor may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Code section 402 and to confirm that such plan is an eligible retirement plan within the meaning of Code section 402(c)(8)(B). However, in no event does the Plan accept a rollover contribution from a Roth elective deferral account under an applicable retirement plan described in Code section 402A(e)(1) or a Roth IRA described in Code section 408A, nor does the Plan accept a rollover contribution of employee after-tax contributions.”

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**IN WITNESS WHEREOF**, the undersigned, authorized to act on behalf of the Employer, adopts and thereby makes effective the foregoing amendment, on this 13<sup>th</sup> day of November, 2019.

Fairfax County Public Schools

Helan Nixon

By [Signature]

Helan Nixon

[Printed Name]