

PRESIDENT'S EMPLOYMENT AGREEMENT

AGREEMENT made this ____ day of January, 2019 between the **BOARD OF TRUSTEES OF MCHENRY COUNTY COLLEGE NO. 528, MCHENRY COUNTY, ILLINOIS** (the "Board"), and **DR. CLINTON E. GABBARD** (the "President").

A. EMPLOYMENT

1. The Board hereby employs the President for the period commencing January 24, 2019 and ending December 31, 2022.
2. The President hereby accepts such employment and will devote his full time, skill, labor and attention, to the performance of the duties of the Office of the President of the College, provided that the President may undertake consultative work, speaking engagements, writing, lecturing, or other education-related professional duties and obligations which enhance the reputation of the College and do not affect the President's performance of employment obligations hereunder.
3. The President waives any right to tenure in the College by virtue of entering into this multi-year Agreement and any conditions thereto.

B. SALARY AND SURS

1. The President will receive a salary for the period from January 24, 2019 through December 31, 2019 in a pro-rata bi-weekly amount that is equal to an annualized salary of two hundred forty eight thousand, eight hundred and eighty-five dollars (\$248,885).
2. For each subsequent year of this Agreement, commencing on or after January 1, 2020, the President's annual salary shall be increased by an amount equal to 3% of the prior year's salary, less the amount necessary to prevent the College from exceeding the 3% cap on end of career earnings by the State Universities Retirement System ("SURS") based on a consideration of total earnings used to calculate the President's Final Rate of Earnings ("FRE") for retirement annuity purposes., In no event will such annual salary adjustment result in providing the President with more than a three percent (3%) increase in total creditable earnings for any contract year used by SURS for annuity calculation purposes.
3. The Board and President acknowledge and agree that the salary and compensation increases and benefits granted to the President under this Agreement are not intended to exceed the SURS three percent (3%) cap on annual creditable earnings increases for any contract year which is used by SURS to calculate the President's final rate of earnings ("FRE") for SURS retirement annuity purposes. The Board reserves the right to adjust the compensation and/or benefits provided under this Agreement to prevent the Board from exceeding, and/or address the consequences of having exceeded, the SURS three percent (3%) annual earnings cap. The adjustment of the President's creditable earnings under

this Paragraph shall be in implementation of this provision of this Agreement and shall not constitute or require an amendment to this Agreement.

C. BENEFITS

1. Administrative Employee Benefits

The President will be provided all privileges, leaves, sick leave, and fringe benefits not specifically enumerated herein which are commonly extended to all other McHenry County College Executive Council administrative personnel, to the extent that such benefits do not conflict with any other terms set forth herein.

2. Medical Insurance

The Board shall pay the full premium cost of participation by the President, his spouse and any eligible dependents in the College's group medical insurance program, including any optional or elective costs for dental or vision insurance coverage. In addition, the College will pay for one complete physical examination per year for the President to the extent not paid by insurance.

If at any time during the term of this Employment Agreement, a change in federal or state laws or regulations becomes effective, or enforcement of any such provisions commences, which would cause an employer penalty or tax related to the health insurance benefits provided in this Agreement, or which would cause the President to incur additional taxable income under the terms of this Agreement, the parties agree to re-open this Agreement to revise the affected health insurance benefits provisions to address or eliminate any such penalties or taxes.

3. Vehicle Allowance

The Board shall grant the President a monthly vehicle allowance of Five Hundred Dollars (\$500) as reimbursement for the expense of owning or leasing his personal vehicle for the President's use for College business purposes.

4. Qualified Annuity Contribution

The Board annually will make a matching contribution to a qualified tax-sheltered annuity, established pursuant to Section 403(b) of the Internal Revenue Code, held for the benefit of the President. The contribution amount will match dollar-for-dollar the elective contributions made annually by the President to the tax-sheltered annuity, subject to the applicable IRS Maximum Amount Contributable ("MAC") annual limitation for any year of this Agreement. Further, this provision is subject to the SURS limitations on end of career earnings set forth in Sections B.2 and B.3 of this Agreement.

5. Computer and Internet Access

The Board will provide the President with a laptop computer and high-speed internet access from home, in order to assist the President in performance of his job duties. Upon termination of employment, the laptop will be returned to the

College and the College will cease to pay for such high-speed internet access.

6. Other Business-Related Expenses

The Board shall reimburse the President for reasonable out-of-pocket expenses which he incurs for travel and other activities undertaken by the President on behalf of the College. The Board's reimbursement of such expenses shall be subject to the President's monthly submission of appropriate expense reports and substantiating documentation, and reasonable review and approval by the Board Chair. The Board shall also reimburse the President for his reasonable cell phone expenses to facilitate the performance of his job duties.

7. Professional Development

The President shall be eligible to attend and participate in educational conferences, conventions, workshops, seminars, and similar professional activities and events, subject to reasonable review and approval by the Board Chair. The Board shall reimburse the President for reasonable, out-of-pocket expenses incurred by the President in connection with such approved activities and events.

8. Association Dues

The Board expects the President to engage in activities with local service and civic organizations. The Board will pay any such association and club membership dues incurred by the President as are approved by the Board.

D. POWERS AND DUTIES

1. Authority and Responsibilities

The President is the Chief Executive Officer of the College. He will have charge of the administration of the College under policies established by the Board, direct and assign, place and transfer all employees in accordance with Board policy, and organize and administer the affairs of the College as best serves the College consistent with Board policy and the Illinois Public Community College Act, while exercising his reasonable discretion. The President's responsibilities will include the following:

- a. Fund raising, development; public and alumni relations.
- b. Institutional, faculty, and educational leadership.
- c. Long range planning; formulating the budget; supervision of institutional buildings, grounds and equipment.
- d. Administration of the affairs of the College as best serves the College consistent with Board policy.
- e. Student recruitment and services; faculty recruitment.
- f. Recommending appointments, promotion and dismissal of faculty and staff.

In the exercise of his duties, the President is authorized to exercise all necessary powers and authority incidental thereto.

2. Administration

The President is authorized to organize, reorganize and arrange the administrative and supervisory staff of the College with the concurrence of the Board. The administration of the instruction and business affairs will be lodged with the President subject to the approval of the Board. The responsibility for the selection, placement and transfer of personnel will be with the President subject to the approval of the Board. The Board and its individual members will refer all criticism, complaints and suggestions regarding instruction, business affairs or the administration or instructional staff of the College to the President for study, report and recommendation. Provided, however, that no act by the President will in any way conflict with the authority of the duties of the Board as outlined in any Illinois law applicable to community colleges.

3. Fiduciary Duty

During his employment, the President shall devote substantially all of his professional time, attention, skills and energy to the performance of his responsibilities as President of the College. The President shall perform such responsibilities professionally, in good faith, and to the best of his abilities.

E. EVALUATION

1. By October 1 prior to each year of this Agreement, the President will propose specific written annual performance goals and proposals for measuring progress in achieving those goals for the following twelve (12) month contract year for review and approval by the Board. The Board will meet with the President to review the performance goals. The Board will approve and establish the annual performance goals for each contract year.
2. By October 1 of each year of this Agreement, the President will provide the Board with a written, detailed status report of progress toward the written goals and objectives of the Board, and as to the condition of the College.
3. On or before December 1 of each year of this Agreement, the President will be evaluated by the entire Board in closed session with the President present. The Board will provide the President with a written evaluation.
4. In evaluating the President, the Board will consider the President's powers and duties as set forth herein, the goals and objectives established by the parties and approved by the Board under this Section E, and any other reasonable and applicable criteria as determined in the evaluation process. As part of the evaluation process, the goals and objectives for the following Agreement year will be established.

F. TERMINATION

1. This Agreement and the employment relationship between the Board and the President may be terminated for any of the following reasons.

- a. Mutual agreement upon such terms and conditions agreed to in writing by the Board and the President.
- b. Retirement of the President.
- c. Resignation of the President, provided, however, the President gives the Board at least six (6) months prior written notice of the proposed resignation, unless the Board agrees in writing to accept a shorter period.
- d. Disability, as certified by a physician selected by, or acceptable to, the Board, which renders the President unable to perform the essential duties of his job, with or without reasonable accommodation.
- e. Death of the President.
- f. Termination for good and just cause. For purposes of the Agreement, "good and just cause" means the following:
 - (1) The President's material failure or refusal to perform his duties hereunder, for any reason other than mental or physical incapacity, after the President has been given at least forty-five (45) days prior written notice of such breach and a reasonable opportunity to cure such breach;
 - (2) Misconduct by the President, outside the scope of his employment by the College hereunder, which is detrimental to the reputation of the President in the community;
 - (3) Misconduct by the President, outside the scope of his employment by the College hereunder, which is materially detrimental to the reputation of the Board or the College in the community.
 - (4) The Board's right to terminate this Agreement for good and just cause pursuant to this Section of this Agreement shall be exercised by the affirmative vote of at least five (5) of the seven (7) members of the Board in favor of the President's dismissal for good and just cause, and the giving of written notice to the President specifying in detail the grounds for such termination. Upon the President's receipt of written notice from the Board pursuant to this Section, the President has the right to appear before all seven (7) members of the Board, at a meeting conducted in closed session, to discuss the breach asserted by the Board and its cure. Where the Board is terminating for good and just cause under this Section, and if the breach is not cured prior to the expiration of the cure period provided herein, such termination will be effective upon the expiration of such forty-five (45) day cure

period and the Board's reaffirmation of the President's dismissal for good and just cause by an affirmative vote of at least five (5) of its seven (7) members.

2. The Board may terminate this Agreement by written notice to the President at any time after the President has exhausted his accumulated health leave and he has been absent from employment for a period of ninety (90) days out of one-hundred twenty (120) consecutive calendar days.

The Board reserves the right to require the President to submit to a medical examination, either physical or mental, whenever the Board deems that the President may be disabled. Such examination will be performed by a physician licensed to practice medicine in all its branches, who is selected and paid by the Board. The President expressly agrees that the physician will prepare a detailed report of the state of his health and submit it to the Board of Trustees.

3. In the event that this Agreement is terminated for cause or any other reason, the Board will not grant the President any severance payment in excess of one (1) year as provided in Section 805/3-65 of the Illinois Public Community College Act. The Board's decision to terminate this Agreement in accordance with this paragraph F does not obligate the Board to pay any severance compensation to the President upon termination.

G. INDEMNIFICATION

The Board will indemnify, defend, and hold the President harmless from and against any and all claims, demands, suits, debts, actions, causes of action, costs, expenses, damages and liabilities suffered, sustained or incurred by the President as the result of, or arising out of, or asserted against the President because of the performance of his duties and responsibilities as the President of the College.

H. NOTICE

All notices required by this Agreement shall be in writing and delivered as follows:

If to the Board, to:

Mr. Mike Smith c/o McHenry County or to any subsequent Board Chair
College 8900 US Highway 14
Crystal Lake, IL 60012

with a copy to:

Ms. Molly Walsh
c/o McHenry County College
8900 US Highway 14
Crystal Lake, IL 60012

or to any subsequent Board Secretary

If to the President, to:

Dr. Clinton Gabbard
c/o McHenry County College
8900 US Highway 14
Crystal Lake, IL 60012

or to the President's Residence

or as otherwise directed by a party in a notice issued pursuant to this provision. All notices shall be given personally, or via a national overnight delivery service, or via certified mail, postage prepaid, return receipt requested. A notice delivered personally shall be deemed to have been given on the date on which it is so delivered. A notice sent via a national overnight delivery service shall be deemed delivered on the next business day following its date of dispatch. A notice sent by certified mail shall be deemed to have been delivered three (3) business days after it is properly deposited in a U.S. Postal Service depository.

I. **SAVINGS CLAUSE**

This Agreement shall be interpreted and enforced in accordance with the laws of the State of Illinois. The provisions of this Agreement are intended to be interpreted and enforced in a manner which renders them valid and enforceable. In the event that any provision of this Agreement is found to be invalid or unenforceable, such provision shall be modified to the extent and in the manner which a court of competent jurisdiction deems reasonable, and thereupon enforced upon such terms. If any such provision is not so modified, it shall be deemed stricken from this Agreement without affecting the validity and enforceability of any of the remaining provisions hereof.

J. **ENTIRE AGREEMENT**

This Agreement contains the entire agreement of the parties and supersedes all prior discussions, representations, commitments, and agreements between the parties with respect to the subject matter hereof. No modification or amendment of this Agreement shall be deemed valid unless in writing properly approved and authorized by the Board Chair and signed by the President.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of January, 2019.

PRESIDENT

**BOARD OF TRUSTEES OF MCHENRY
COUNTY COLLEGE NO. 528, MCHENRY
COUNTY, ILLINOIS**

Dr. Clinton Gabbard

By: _____
Chairperson

ATTEST:

Secretary

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