

DOWAGIAC UNION SCHOOLS SUPERINTENDENT EMPLOYMENT CONTRACT

IT IS AGREED by and between the BOARD OF EDUCATION OF THE DOWAGIAC UNION SCHOOL DISTRICT, Dowagiac, Michigan, hereinafter referred to as the "Board" or the "District", and JONATHAN WHAN, hereinafter referred to as the "Superintendent", that pursuant to Section 1229(1) of the Revised School Code, the Board in accordance with its action found in the minutes of its meeting held on the 11th day of June, 2020, has and does hereby to employ Jonathan Whan in the capacity of Superintendent of Schools under the authority of the Board and its successors for the period of 3 years from July 1, 2020, through June 30, 2023, according to the terms and conditions as described and set forth herein as follows:

1. DUTIES

- a) The Superintendent agrees to perform all duties and responsibilities assigned in a competent and professional manner and to render satisfactory service in such capacity in accordance with the present and future policies, rules, regulations, and bylaws adopted by the Board. The Board, individually and collectively, shall refer promptly all criticisms, complaints, and suggestions called to its attention to the Superintendent for study and recommendation.
- b) The Superintendent represents that he possesses, holds and will maintain all certificates, credentials and qualifications required by law, including the provisions of Sections 1246 and 1536 of the Revised School Code, the regulations of the Michigan Department of Education, and those required by the Board to serve in the position assigned. The Superintendent agrees, as a condition of his continued employment, to meet and maintain all certification and continuing education requirements for the position assigned, as are and may be required by law and/or by the State Board of Education. If at any time the Superintendent fails to maintain all certificates, credentials, continuing education requirements and/or qualifications for the position assigned as required herein, this Contract shall automatically terminate and the Board shall have no further obligation hereunder.
- c) It is specifically agreed and understood by the parties that the position of Superintendent of Schools is a full-time position and that the Superintendent shall devote his efforts to employment set forth herein to fulfill all responsibilities and tasks required by state and federal law and regulations and by the Board to carry out the educational programs and policies of the District during the entire term of this Contract. In this connection that Superintendent shall not undertake gainful employment from any other source whatsoever during the term of this agreement, except upon the express written approval of the Board of Education.

2. RESIDENCY

Per Board Policy 1220 the Superintendent shall maintain his principal residence within twenty miles of the borders of the Dowagiac Union School District. At the Superintendent's request, the Board may consider alternative language in the residency requirement.

3. COMPENSATION

- a) In consideration for the satisfactory performance of all duties assigned to the Superintendent, the Board agrees to compensate the Superintendent for the sum of One-hundred-thirty-six-thousands, two-hundred-fifty-dollars (\$136,250) for first year of this contract, starting July 1, 2020. For the second year the salary, compensations and benefits will be determined by June 1, 2021, and for the third year the salary, compensation and benefits will be determined by the June 1, 2022.
- b) Over and above the aforementioned base salary, the Superintendent shall receive from the Board, a non-elective employer contribution to an annuity as part as part of the salary/compensation package during each year of this contract for the of sum of Ten-thousand-Dollars (\$10,000).
- c) The Board shall also provide a technology stipend of \$125 dollars each month to cover the expenses the Superintendent will incur for owning and maintain two-way voice, text and email communication to enhance the effective and efficient operation of the District.
- d) The Board hereby retains the right to increase the annual salary, annuity, compensation and technology stipend of Superintendent at any time during the term of this Contract. There will be, at a

minimum an annual review and be consistent with the provisions of Section 1250 of the Revised School Code, Superintendent's job performance and job accomplishments will be significant factors in determining any adjustment to Superintendent's compensation. Any increase in salary made during the term of this Contract shall be in the form of a written amendment and when executed by Superintendent and the Board, shall become a part of this Contract. This review will take place after the annual evaluation date and on or before June 1, and in no case, will the compensation, in any form, or benefits be lowered by the Board.

4. WORK YEAR, VACATION AND HOLIDAYS

- a) The Superintendent agrees to perform the duties of his position for a period of 52 weeks per year consisting of 260 workdays. The Superintendent shall perform the duties of Superintendent in a competent, proficient, and professional manner, and shall not during the term of the Contract be engaged in any other activity for remuneration without prior approval of the Board or its designee. The Superintendent pledges to use his best efforts to maintain and improve the quality and efficiency of the operation of the District. (Per diem rate is calculated based on the 260 workdays.)
- b) The Superintendent shall be provided with Twenty-five (25) days of vacation annually. Up to ten (10) unused days of vacation time will be paid at the per diem rate. Payment will be made at the end of the fiscal year or when the Superintendent leaves the employ of the district, at his option. Vacation days do not carry over from year to year. Superintendent should attempt to schedule use of vacation days in a manner to minimize interference with the orderly operation and conduct of business of the District. The Superintendent will notify the Board President when vacation days are scheduled. Vacation time may be prorated based upon actual time worked in situations where a full year is or will not be worked.
- c) The Superintendent shall not be expected to work, and shall be paid for, the following twelve (12) holidays: 4th of July, Labor Day, Thanksgiving Day, the day after Thanksgiving, Christmas Eve, Christmas day, additional day for Christmas, New Year's Eve, New Year's Day, additional day for New Year's, Good Friday and Memorial Day. The Superintendent will not be paid for these days if he is on unpaid leave.

5. TRANSPORTATION

The Board shall reimburse the Superintendent at the rate per mile established by the Internal Revenue Service for use of his automobile in conducting business associated with the duties of the position within and out-of-district travel, including attending of conferences and training sessions etc.

6. FRINGE BENEFITS

Upon proper application and acceptance for enrollment by the appropriate insurance underwriter, policyholder and/or third party administrator, the Board shall make benefit cost payments, as specified below, on behalf of the Superintendent and his/her eligible dependents for enrollment in the following insurance programs: Health, Dental, Vision insurance. In addition, for the Superintendent only, the Board shall provide Term life and Long Term Disability insurance.

The Superintendent agrees that the Board has the right to allocate to the Superintendent responsibility for a portion of the medical benefit plan costs and premiums for the plans and products specified above, as may be determined by the Board. The contributions required of the Superintendent shall not be less than the amount determined by the Board to be necessary to comply with the Publicly Funded Health Insurance Contribution Act, 2011 PA 152. The Board will notify the Superintendent of the amounts for which he/she is responsible in excess of the Board contributed medical benefit plan costs and premiums. To the extent that the medical benefit plan costs and premiums associated with the above plans and products exceed the level of the Board's contributions, the Superintendent hereby authorizes payroll deduction for all excess medical benefit plan costs and premium amounts required to maintain enrollment.

If the Superintendent makes a voluntary written election not to avail himself/herself of the health /medical coverage offered by the Board, he/she will instead receive \$700, on a monthly basis, under a qualified Section 125 plan, on the further condition that Administrator furnishes written evidence that he/she is

enrolled in another health/medical benefits plan that meets the minimum value and coverage requirements of the Affordable Care Act.

The Board reserves the right to change the identity of the insurance carrier, policyholder or third party administrator for any of the above coverages, provided that comparable coverage, as determined by the Board, is maintained during the term of this Contract. The Board shall not be required to remit medical benefit plan costs or premiums for any insurance coverages for the Superintendent and his/her eligible dependents if enrollment or coverage is denied by the insurance underwriter, policyholder or third-party administrator. The terms of any contract or policy issued by any insurance company or third-party administrator shall be controlling as to all matters concerning benefits, eligibility, coverage, termination of coverage, and other related matters. The Superintendent is responsible for assuring completion of all forms and documents needed to receive the above-described insurance coverage. The Board, by remitting the medical benefit costs and premium contributions required under this Contract to provide the above-described plans and products, shall be relieved from all liability with respect to insurance benefits.

- a) The District will provide the Superintendent with Life Insurance in an amount no less than 2 X the annual salary rounded to the nearest thousand.
- b) The Superintendent will receive twelve (12) sick days per year up to a total of 155 maximum. Accrued days have no monetary value.
- c) Four (4) personal days per year to be deducted from sick bank.
- d) The Superintendent shall be granted three (3) emergency/bereavement leave days, per event within the fiscal year, which will not be charged against the sick bank. These days would be allowed for immediate family consisting of wife, children, grandchildren, the superintendent's parents/parent-in-laws, siblings/brother/sister-in-law or their children.
- e) The Superintendent will receive reimbursement for State certification fee.

7. MEDICAL EXAMINATION AND INCAPACITY

- a) After the commencement of employment, the Board may, at its expense, direct that the Superintendent be examined by health care personnel of its choice to determine the Superintendent's continuing fitness. Such examination may, at the Board's option, include drug or alcohol tests to which the Superintendent herein consents.
- b) Superintendent shall submit to such medical examinations, supply such information and execute such documents as may be required by any underwriter, policyholder or third party Superintendent providing insurance programs specified under this Contract. Additionally, upon request of the Board, Superintendent shall authorize the release of medical information necessary to determine if Superintendent can perform the essential job functions required by his/her assignment, with or without reasonable job accommodation(s). Any physical or mental examination or disclosure of such information required of Superintendent by the Board shall be job related and consistent with business necessity. Any medical or psychological examination under this section shall be at Board expense. Any information obtained from medical or psychological examinations or inquiries shall be considered and treated as confidential.
- c) In the event of the Superintendent's mental and/or physical incapacity to perform the duties of his/her office, he/she shall be granted an initial leave of sixty (60) work days for purpose of recovery. The Superintendent shall first exhaust any accumulated sick leave and accrued vacation time, prior to the initiation of the sixty (60) work day period, which would be unpaid but retain medical benefits covered by the Board. Upon utilizing leave under this provision, the Superintendent shall furnish medical certification to the Board (or its designee) respecting the necessity for the leave. If the Board (or designee) has reason to doubt the validity of the medical certification supplied by the Superintendent, it may require a second opinion, at Board expense. The Superintendent may request a sixty (60) work day unpaid leave extension in the event of his/her physical and/or mental inability to return to work at the expiration of the initial leave interval, as described above, provided that there is a verified prognosis that the Superintendent will be able to resume his/her duties at the conclusion of the extended leave interval. Medical certification shall be

supplied by the Superintendent as a condition to any leave extension. Any extensions of leave for this purpose shall be at the Board's discretion.

If the Superintendent is unable to or does not resume work at the conclusion of a leave taken under this paragraph (or any extension thereof), his/her employment and this Contract may be terminated at the option of the Board. However, no such termination shall occur where restoration after leave is required by the Family and Medical Leave Act.

Prior to resumption of duty after an unpaid leave of absence for a serious health condition, the Superintendent shall provide to the Board a fitness for duty certification from the Superintendent's health care provider. A second opinion may be required by the Board, at its expense, unless the securing of the second opinion in this context is precluded by the Family and Medical Leave Act.

8. PROFESSIONAL GROWTH

- a) The Superintendent may attend professional meetings at the local, state and national levels, the expenses of said attendance to be paid by the district.
 - 1. Superintendent may attend four (4) state association conferences each year.
 - 2. Superintendent may attend one (1) national association conference every other year.
 - 3. Addition state or national conference may be attending with approval of the Board.
- b) The District encourages the Superintendent to attend seminar and training sessions provide by different local or state providers as needed. The district shall pay for said attendance and expenses.

9. PROFESSIONAL DUES, MEMBERSHIP FEES and EXPENSES

- a) The District shall pay Association dues for the American Association of School Administrators, the Michigan Association of School Administrators, and MASA Region group.
- b) Additional affiliations/associations cost may be covered with approval of the Board.
- c) The District will also pay fees for membership to local service and business groups to allow the Superintendent to develop and sustain partnerships on behalf of the district.
- d) The Board shall provide, or reimburse the Superintendent, for expenses associated with his representation and performance of his duties for the District in ways of but not limited to: meetings, promotional products/merchandise, so long as the expenses is not prohibited by the Michigan Revised School Code. Expenses will be shared with and reviewed by the Board president periodically throughout the year.

10. EVALUATION

- a) The Board shall evaluation the Superintendent once annually, using the criteria in accordance with section 129 of the Michigan Revised School Code, as applicable to the Superintendent. The Superintendent shall receive an overall rating of Highly Effective, Effective, Minimally Effective or In effective. The Board and Superintendent will agree upon the evaluation tool to be used.
- b) The Board will evaluate the Superintendent no later than December 31 of the school year for which the evaluation is to be recorded. This will be used to establish his rate for the next school year.
- c) The evaluation process shall include, but is not limited to a conference with the Superintendent, which shall be open or closed at his option in accordance with the Open Meeting Act.
- d) At the Superintendent's request, the Board may also meet with the Superintendent on a quarterly basis to review his progress and performance.

11. PERFORMANCE INCENTIVE

In compliance with 1250 Merit Pay is tied directly to the Superintendents annual evaluation.

- a) If the Superintendent is rated "Effective", four (4) days per diem rate will be paid.
- b) If the Superintendent is rated "Highly Effective," six (6) days per diem rate will be paid.

12. EXTENSION/RENEWAL PROCESS

- a) The Board may offer to extend or renew this Contract at any time during the life of the contract. If the Board offers to extend/renew this agreement the Superintendent shall, within thirty (30) days of receipt of such written notice from the Board, the superintendent must notify the Board, in writing, of

his intention to accept or reject the offer. Signing of the new contract constitutes notice in any part of this section.

- b) In years' when the superintendent's evaluation rating is highly effective or effective a minimum extension of one (1) year will be added to the contract. On or before the date of the Regular Board meeting scheduled in June of the school year the evaluation was completed, the superintendent must give written notice to in the Board of his intent to activate this option.
- c) Other than the last year of the contract, if the Superintendent's annual evaluation rating reflects unsatisfactory performance (minimally effective or ineffective) it is the Board's decision if an extension will or will not be offered to the Superintendent.
- d) During the last year of the contract, the Board shall notify the Superintendent in writing no later than 90 days prior to the expiration of the present term of the contract of its decision to renew or not renew the Contract beyond its term. If the Board does not comply with this requirement, the Superintendent's contract is automatically renewed for an additional one (1) year period. If the Board does offers to renew the Superintendent's contract it shall be in writing. The Superintendent shall give written notice to the Board within thirty (30) days of receipt of such notice, to notify the Board of his intention to accept or reject the offered.
- e) It is mutually understood and agreed that this Contract is not to be construed to grant to the Superintendent tenure, in this position or in any other administrative position within the Dowagiac Union School District, and that no such tenure shall be granted because of this employment agreement or because of the Superintendent's assuming the duties set forth herein.

13. TERMINATION PROVISIONS

The Board shall be entitled to terminate the Superintendent's employment at any time during the term of this Contract when it determines that the Superintendent has engaged in acts of moral turpitude, misconduct, dishonesty, fraud, insubordination, incompetency, inefficiency, if the Superintendent materially breaches the terms and conditions of this Contract, or for other causes that are not arbitrary or capricious.

The foregoing standards for termination of this Contract during its term shall not be applicable to non-renewal of this Contract at the expiration of its term, which decision is discretionary with the Board.

- a) In the event that the Board undertakes to dismiss the Superintendent during the term of this Contract, he shall be entitled to written notice of charges and an opportunity for a hearing before the Board.
- b) Prior to making a determination that discharge should occur, the Board shall give the Superintendent an opportunity to have a hearing before the Board, and the Superintendent shall also be given prior notice of any alleged deficiencies in writing and a reasonable opportunity, (as defined by the Board following consultation with the Superintendent) to take corrective action before the Board makes its determination.
- c) The Superintendent shall have the right to request either an open or closed hearing in accordance with the provisions of applicable law and to representation by counsel of his own choosing and at his own expense. Such a request may be received by the Board within 20 business days of the Superintendent's receipt of the Board notice of concerns.
- d) The determination of the Board shall be in writing and given to the Superintendent within a reasonable time after the end of such hearing, not to exceed 60 calendar days. In the event of termination of employment during the term of this contract, this contract shall automatically terminate and the Board shall have no further obligation hereunder.

14. LIABILITY INSURANCE

The Board agrees to pay the premium amount for errors and omissions insurance coverage for Administrator while engaged in the performance of a governmental function and while the Administrator is acting within the scope of his/her authority. The policy limits for this coverage shall be not less than \$1,000,000. The terms of the errors and omissions insurance policy shall be controlling respecting defense and indemnity of Administrator. The sole obligation undertaken by the Board shall be limited to the payment of premium amounts for the above errors and omissions coverage. In the event that such insurance coverage cannot be purchased in the above amounts and/or at a reasonable premium rate, the Board shall have the right to present options to the superintendent for possible alternative coverage. At no time will the Superintendent be without significant errors and omissions coverage and any change in the amount must be agreed to by the

Board and Superintendent. In that event, the Board agrees on a case-by-case basis to consider providing legal defense and/or indemnification to Administrator as is authorized under MCL 691.1408 and MCL 380.11a (3)(d).

15. DISPUTE RESOLUTION

In the event of any dispute between the parties relating to discharge of the Superintendent during the term of this Contract, the parties hereby agree to submit such to binding arbitration. Selection of the arbitrator and the arbitration proceedings shall be conducted under the National Rules for the Resolution of Employment Disputes of, and administered by, the American Arbitration Association. Arbitration under this provision shall be conducted pursuant to the terms of the Michigan Uniform Arbitration Act, MCL 691.1681 et seq.

The parties intend that this process of dispute resolution shall be inclusive of all contract and statutory claims advanced by the Superintendent arising from the Superintendent's discharge during the term of this Contract, including (but not limited to) claims of unlawful discrimination and all claims for damages or other relief. However, this agreement to arbitrate does not restrict the Superintendent from filing a claim or charge with any state or federal agency (such as the Equal Employment Opportunity Commission or the Michigan Department of Civil Rights), and does not apply to any claims for unemployment compensation or workers' compensation which may be brought by the Superintendent. Instead, this agreement to arbitrate claims applies to those matters which would otherwise be subject to state or federal court proceedings.

This agreement to arbitrate means that Superintendent is waiving his/her right to adjudicate discrimination claims in a judicial forum and is instead opting to arbitrate those claims. In any such arbitration proceeding, the Superintendent shall have the right to representation by counsel of his/her choice, the right to appointment of a neutral arbitrator, the right to reasonable discovery and the right to a fair hearing. However, the Superintendent, through this agreement to arbitrate such claims, does not waive any statutory rights or remedies in the context of such arbitration proceedings.

The arbitrator's fees and the costs imposed by the American Arbitration Association shall be shared equally by the Board and the Superintendent, up to \$1,000.

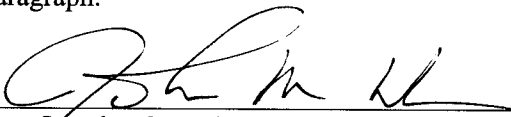
Any claim for arbitration under this provision must be filed with the American Arbitration Association, in writing, and served on the Board within sixty (60) days of the effective date of Administrator's discharge during the term of this Contract. The Decision and Award of the arbitrator shall be final and binding and judgment thereon may be entered in the Circuit Court for the 43rd Judicial Circuit of Michigan (Cass County), pursuant to applicable provisions of the Michigan Uniform Arbitration Act.

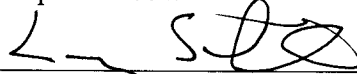
16. AMENDMENT

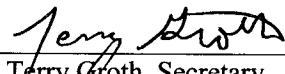
This Contract constitutes the entire understanding and agreement of the parties. No individual Board member has the authority to enter into any new or different contract or to modify this Contract. No change shall be effective with respect to the terms of this Contract unless in writing and signed by both parties. This Contract shall be subject to all the applicable laws and statutes of the State of Michigan.

17. DECLARATION OF CONTRACT

We, the parties to the Superintendent's employment contract, sign our names and execute this contract as of the day and year written in the opening paragraph.

_____ June 11, 2020 _____ By: 
Jonathan M. Whan
Superintendent

_____ June 11, 2020 _____ By: 
Larry Schmidt, President
Board of Education

_____ June 11, 2020 _____ By: 
Terry Groth, Secretary
Board of Education