

PENNFIELD SCHOOLS

SUPERINTENDENT CONTRACT OF EMPLOYMENT FOR JULY 1, 2019 TO JUNE 30, 2022

It is hereby agreed by and between the Board of Education of the Pennfield Schools (the "Board" or the "District") and Kevin Simmons (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 the meeting held on May 20, 2019 has and does hereby employ Kevin Simmons for a three (3) year period commencing on July 1, 2019 to and including June 30, 2022, (the "Agreement") according to the terms and conditions described as follows:

1. The Superintendent shall perform the duties of Superintendent as prescribed by the Board and as may be established, modified and/or amended from time to time by the Board. The Superintendent acknowledges the ultimate authority of the Board with respect to his responsibilities and directions related thereto.

2. The Superintendent shall serve as an ex-officio member of each committee established by the Board. The Superintendent shall have the freedom to organize, reorganize, and arrange the administrative and supervisory staff, including instruction and business affairs which, in his judgment and consistent with Board policy, best serves the District. The administration of instruction and business affairs will be lodged with the Superintendent and administered by him with the assistance of the staff. The responsibility for selection, placement, and transfer of personnel shall be vested in the Superintendent and his staff. The Board, individually and collectively, will refer promptly all criticisms, complaints, and suggestions called to its attention to the Superintendent for study and recommendation.

3. The Superintendent agrees to devote his talents, skills, efforts and abilities toward competently and proficiently fulfilling all duties and responsibilities of the position assigned. The Superintendent agrees to faithfully perform those duties assigned by the Board and to comply with the directives of the Board. Further, Superintendent agrees to comply with and fulfill all responsibilities and tasks required by state and federal law and regulations and will work with the Board to define and carry out the educational programs and policies of the District during the entire term of this Agreement. The Superintendent agrees to devote substantially all of his business time, attention, and services to the diligent, faithful, and competent discharge of his duties on behalf of the District to enhance the operation of the District and agrees to use his best efforts to maintain and improve the quality of the programs and services and efficiency of operation of the District in all areas of his responsibility.

The Superintendent will not engage in outside employment, consulting, or other business activity without the prior approval of the Board. The Superintendent may occasionally work with other districts, educational agencies, or associations. This work

will be short-term and support the efforts and work of the District. The Superintendent will keep the Board informed of these activities.

4. The Superintendent represents that he possesses, holds and will maintain all certificates, credentials, and qualifications required by law, the regulations of the Michigan Department of Education, and those required by the Board to serve in the position assigned. Additionally, the Superintendent agrees, as a condition of his continued employment, to meet all 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 Agreement shall automatically terminate and the Board shall have no further obligation hereunder.

5. The Superintendent shall be paid at an annual (twelve month) salary rate of \$115,000 in consideration of his performance of the duties and responsibilities of the position assigned in conformance with the requirements and expectations of the Board. The annual salary shall be paid in twenty-four (24) equal bi-monthly installments beginning with the commencement of the fiscal/contract year (July 1 - June 30). The Superintendent is employed on the basis of fifty-two (52) weeks (260 days) of work per contract year (July 1 through June 30) as scheduled by the Board.

The Board hereby retains the right to increase the annual salary of the Superintendent during the term of this Agreement. Consistent with the provisions of Section 1250 of the Revised School Code, the Superintendent's job performance and job accomplishments will be significant factors in determining any adjustment to the Superintendent's compensation. Any increase in salary made during the term of this Agreement shall be in the form of a written amendment and, when executed by the Superintendent and the Board, shall become a part of this Agreement.

In the event that the Superintendent enters into a contract for employment without the express permission from the Board, this Agreement shall terminate thirty (30) days after the date such contract for employment is signed by the Superintendent regardless of the date actual duties under such contract commence.

6. The Board may terminate the Superintendent's employment at any time during the term of this Agreement when it determines that the Superintendent has engaged in acts of moral turpitude, misconduct, dishonesty, fraud, insubordination, incompetence, inefficiency or if Superintendent materially breaches the terms and conditions of this Agreement or for other reasons that are not arbitrary or capricious.

The forgoing standards for termination of this Agreement during its term shall not be applicable to non-renewal of this Agreement at the expiration of its term, which decision is discretionary with the Board. In the event that the Board undertakes to dismiss the Superintendent during the term of this Agreement, he shall be entitled to written notice of charges and an opportunity for a hearing before the Board. In the event

of termination of employment during the term of this Agreement, this Agreement shall automatically terminate, and the Board shall have no further obligation hereunder.

7. The Superintendent's performance shall be evaluated at least annually using multiple rating categories that take into account data on student growth as required by Section 1249 of the Revised School Code or successor provisions.

8. The Superintendent agrees that he shall not be deemed to be granted continuing tenure in this position.

9. In the event of the Superintendent's mental and/or physical incapacity to perform the duties of his office, he shall be granted an initial leave of ninety (90) work days for purpose of recovery. The Superintendent shall first exhaust any accumulated non-work days, with the balance of the ninety (90) work days period to be unpaid. Health plan premium payments shall be made on behalf of the Superintendent during this interval to the extent required by law. The Superintendent shall continue to be responsible for his share of the insurance premium contribution, as identified in this Agreement, which amount shall be payroll deducted from the Superintendent's compensation. Upon utilizing leave under this provision, the Superintendent shall furnish medical certification to the Board respecting the necessity for the leave. If the Board has reason to doubt the validity of the medical certification supplied by the Superintendent, it may require a second opinion, at Board expense.

10. The Superintendent may request a ninety (90) work day unpaid leave extension in the event of his 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 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 discretion of the Board.

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 employment and this Agreement 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, Superintendent shall provide to the Board a fitness for duty certification from Superintendent's health care provider. The Board, at its expense, may require a second opinion unless the securing of a second opinion in this context is precluded by the Family and Medical and Leave Act.

11. The Superintendent shall submit to such medical examinations, supply such information, and execute such documents as may be required by an underwriter, policyholder, or third party administrator providing insurance programs specified under

this Agreement. Additionally, upon request of the Board, the Superintendent shall authorize the release of medical information necessary to determine if the Superintendent is capable of performing the essential job functions required by his assignment, with or without reasonable job accommodation(s). Any physical or mental examination or disclosure of such information required of the 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.

12. Upon proper application and acceptance for enrollment by the appropriate insurance underwriter, policyholder, and/or third party administrator, the Board shall make premium payments on behalf of the Superintendent and his eligible dependents for the following insurance or self-funded programs:

- a. Health Insurance – Priority Health Plan
- b. Dental Insurance – Max \$1,000 per family
- c. Term Life Insurance – \$130,000 with accidental death & dismemberment (AD&D)
- d. Vision Insurance – Max \$250 per family member
- e. Long Term Disability Insurance – Group long term disability policy which provides for 60% of salary per month as month as specified in the group policy.

The Superintendent agrees that the Board has the right to allocate to the Superintendent responsibility for a portion of the premium for insurance coverages specified above, as may be determined by the Board, in its discretion. However, this contribution 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 Superintendent of the premium amount for which he is responsible in excess of the Board paid premium contributions. The Superintendent agrees that the amount of premium contributions designated by the Board as Superintendent's responsibility shall be payroll deducted from the Superintendent's compensation.

The Superintendent acknowledges that he has been provided with a copy of the District's benefits plan(s) and fully accepts the conditions stated therein as regulating his access to, and participation in, insurance benefits programs or compensation options in lieu of such programs for which the premium is paid by the Board.

In the event that the Superintendent waives available coverage(s) under the District's benefits plan(s) and elects to receive additional compensation, pursuant to the plan(s), any direction of that compensation to a tax deferred annuity under Section 403(b) of the Internal Revenue Code or to any other tax-deferred investment within the meaning of Section 1224 of the Revised School Code shall be regarded as a voluntary and elective contribution made by the Superintendent through salary deduction.

Nothing in this Agreement or the District's benefits plan(s) shall be construed as a representation, characterization or warranty by the Board regarding the taxable or non-taxable status of such benefits or amounts received in lieu of enrollment in fringe benefits program(s). The Superintendent agrees that he accepts full responsibility for all taxation (state, federal and local) consequences which may result from his participation in the District's benefits plan(s) or from selection of any benefit or compensation alternative provided pursuant to the terms of that plan.

13. The Board reserves the right to change the insurance carrier, policyholder, or third party administrator for any of the above coverage(s). The Board shall not be required to remit premiums for any insurance coverage(s) for the Superintendent and his 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 premium payments required to provide the above-described insurance coverage(s), shall be relieved from all liability with respect to insurance benefits.

14. The Superintendent is entitled to the following holidays for which no service to the School District is required:

- a. Independence Day;
- b. Labor Day;
- c. Thanksgiving (2);
- d. Christmas (3);
- e. New Years Day (3);
- f. Good Friday (if school is not in session an alternate non-instructional day will be substituted for holiday pay); and
- g. Memorial Day.

15. The Superintendent shall receive thirty-seven (37) paid non-work days, per contract year, that may be used for personal illness, disability, serious illness in the Superintendent's family (i.e., spouse, child or parent), bereavement days for death of an immediate family member as defined in the Master Agreement with the PEA/MEA, personal business, or vacation. The Superintendent shall schedule the use of non-work days in a manner to minimize interference with the orderly operation and conduct of business of the District.

The Superintendent may accrue up to eighty (80) leave days inclusive of both unused but accrued leave carried over from prior school years and additional accrued but unused leave days provided under this Agreement. At expiration of this Agreement, the Superintendent is entitled to be paid for up to eighty (80) accrued but unused leave days on a per diem basis.

16. The Superintendent shall receive a one-time payment of \$10,000 for moving expenses in the event the Superintendent elects to establish residency in the District or Pennfield Township. The Superintendent shall also receive \$12,000 additional compensation for expenses related to living in the district for the first year of the contract, paid in quarterly payments. In the subsequent two years of the contract, the living expense shall be reviewed for possible renewal at the rate of \$22,000 per year in quarterly payments, provided that the Superintendent receives an effective performance rating.

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17. The Board recognizes that high-performing superintendents continue to learn and develop their leadership practices, technical processes, and knowledge in order to meet the complex demands of their jobs. In addition, the Board recognizes that Michigan law requires school officials to be certified, and encourages exemplary professional practice in the superintendency by making provision for specialty and enhanced endorsement to that certification.

For the purpose of investing in the Superintendent's growth and development in professional practice, the Board will pay for the fees or dues for membership in appropriate professional organizations. The Superintendent may attend appropriate professional meetings, professional development conferences, seminars or complete college coursework and shall be reimbursed for reasonable registration fees, tuition, travel, lodging and/or meal expenses for himself in relation thereto not prepaid by the Board. The Superintendent shall be required to present an itemized account of his reasonable and necessary expenses in accordance with direction of the Board or its designees. Such professional growth expenses shall be limited to amounts budgeted for that purpose in the approved budget (\$3,000 per contract year) and subject to notice and approval by the Board prior to registering for out-of-district events that require overnight lodging. The Superintendent's professional leadership development plan, may include, but is not limited to, strategies such as: mentoring, coaching and credentialing programs; professional development training and workshops; conferences; and coursework. Mileage in connection with the Superintendent's job duties shall be reimbursed at the IRS rate.

18. The Board agrees to pay the premium amount for errors and omissions insurance coverage for the Superintendent while engaged in the performance of a governmental function and while the Superintendent 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 the Superintendent. 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 discontinue said coverage and shall so notify the Superintendent.

19. This Agreement contains the entire agreement and understanding by and between the Board and Superintendent with respect to the employment of the

Superintendent and no representations, promises, contract or understandings, written or oral, not contained herein, shall be of any force or effect. All prior agreements pertaining to, connected with, or arising in any manner out of the employment of the Superintendent by the Board, are hereby terminated and shall hereafter be of no force or effect whatsoever. This Agreement is voidable pursuant to the provisions of the Revised School Code pertaining to criminal records checks.

No amendment to, or modification of this Agreement shall be valid or binding unless it is in writing, approved by official action of the Board reflected in its minutes, and signed by the Superintendent, Board President, and Secretary. No valid waiver of any provision of this Agreement, at any time, shall be deemed a waiver of any other provision of this Agreement at such time or at any other time.

20. If any provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision(s).

21. In the event of any dispute between the parties relating to discharge of the Superintendent during the term of this Agreement, 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 Arbitration Act, MCL 600.5001 *et seq.* and MCR 3.602.

The parties intend that this process of dispute resolution shall be inclusive of all contract and statutory claims arising from the Superintendent's discharge during the terms of this Agreement, including, but not limited to, claims of unlawful discrimination and all claims for damages or other relief. However, this 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 applies to those matters that would otherwise be subject to state or federal court proceedings.

The Superintendent is waiving his 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 choice, the right to appointment of a neutral arbitrator, the right to reasonable discovery and the right to a fair hearing.

The arbitrator's fee and the costs imposed by the American Arbitration Association shall be shared equally by the Board and Superintendent, subject to the right of the Superintendent to seek to tax such fees as costs against the Board.

Any claim for arbitration under this provision must be filed with the American Arbitration Association, in writing, and served on the Board within one hundred eighty

(180) days of the effective date of the Superintendent's discharge during the term of this Agreement. The Decision and Award of the arbitrator shall be final and binding and judgment thereon may be entered in the Circuit Court for the 37th Judicial Circuit of Michigan (Calhoun County), pursuant to MCL 600.5001.

22. This Agreement is executed on behalf of the District pursuant to the authority granted as contained in the minutes of the May 20, 2019 Regular Meeting.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date(s) identified below.

Dated: 5/17/19, 2019

PENNFIELD SCHOOLS

By: 

Kevin Simmons

Its: Superintendent

Dated: 5/20, 2019

**PENNFIELD SCHOOLS BOARD OF
EDUCATION**

By: 

Its: President

Dated: 5/20/19, 2019

By: 

Its: Secretary