

NOV 02 2010

## CONTRACT OF EMPLOYMENT EAST LANSING PUBLIC SCHOOLS' SUPERINTENDENT

This Contract of Employment ("Contract") is entered this 26<sup>th</sup> day of October, 2010 by and between the Board of Education of the School District of the City of East Lansing ("the Board") and Dr. David B. Chapin ("the Superintendent").

1. **Term.** This Contract shall take effect on July 1, 2010, and shall continue in force until it expires on June 30, 2014, subject to amendment and/or termination during its term as set forth below. No later than March 30, 2014 the Board shall review this Contract with the Superintendent and determine whether or not it shall be extended beyond June 30, 2014.
2. **Authority of Board.** 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.
3. **Qualifications.** The Superintendent represents that he possesses, holds and will maintain all certificates, credentials and qualifications required by law, including the regulations of the 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 may be required by law and/or 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 obligations hereunder.
4. **Duties.** 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 as may be established, modified and/or amended from time to time by the Board to comply with the directives of the Board with respect to all such duties. Further, the Superintendent agrees to comply with and 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 School District for which he is responsible during the entire term of this Contract. The Superintendent pledges to use his best efforts to maintain and improve the quality of the operation of the School District and constantly promote efficiency in all areas of his responsibility.
5. **Compensation.**
  - A. **Salary.** Beginning July 1, 2010, the Superintendent shall be paid a salary of one hundred forty-eight thousand dollars (\$148,000.00) during each year of this Contract 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 specified salary rate shall become effective upon execution of this Contract of Employment by both the Superintendent and authorized representatives of the Board. The Superintendent shall be paid in twenty-six (26) equal bi-weekly installments.

- B. **Tax Annuity.** As part of the Superintendent's compensation and remuneration for his service under the terms of this Contract, the Board shall remit the amount of twelve thousand seven hundred dollars (\$12,700.00) as a non-elective contribution to a 403b annuity designated by the Superintendent from among the plans and vendors available through the District's 403b Plan. The Board shall remit this payment on June 30 annually as part of the Superintendent's remuneration for the contract/fiscal year ending on that date.
- C. **Salary Increases.** The Board hereby retains the right to increase the annual salary of Superintendent during the term of this Contract. Any increase in salary made during the term of this Contract shall be in the form of a written amendment and shall become effective when executed by the Superintendent and the Board. Any such amendment(s) shall become part of this Contract.

6. **Termination During Term of Contract and Non-Renewal.**

- A. The Board and the Superintendent may, by mutual written consent, terminate this Contract at any time.
- B. The Board may unilaterally terminate this Contract during its term, upon thirty (30) days written notice to Superintendent. In the event that the Board exercises this option, upon Superintendent executing a complete release of any and all claims against the School District (including its Board of Education, its trustees, and employees in their individual and official capacities) and a covenant not to sue, all of which are satisfactory and acceptable in form and content to the Board, he shall then receive a severance package which will include salary for twelve (12) months from the date that he is notified by the Board that it has terminated this Contract under this provision. During that twelve (12) month period, the Board shall continue to pay premiums, in the amount required under Paragraph 13 of this Contract, for the Superintendent's (and his dependents', if any) continued participation in health insurance coverage identified in Addendum A.
- C. Alternatively, the Board may terminate this Contract at any time during the term hereof (or any extension) for any act by the Superintendent of moral turpitude, misconduct, dishonesty, fraud, insubordination, incompetency, incapacity (subject to the provisions of Paragraph 10 of this Contract), inefficiency, if the Superintendent materially breaches the terms and conditions of this Contract, or for other reasons determined to be sufficient by the Board.

In the event the Board elects to terminate this Contract during the term under the provisions of this paragraph 6C, the Board shall provide written notification to the Superintendent of the charges against him. If the Superintendent wishes to contest the charges, he shall respond in writing to each of the charges and may make a written request for a hearing before the Board within ten (10) days of his receipt of the charges.

If the Superintendent does not contest the charges as presented in the time and manner specified, the charges shall be considered admitted and the Superintendent shall be considered to have waived any right to contest the charges. If requested by the Superintendent, a hearing before the Board will be scheduled at a time and place established by the Board not less than seven (7) days, and no more than thirty (30) days, after its receipt of the request. The hearing need not be conducted using formal trial or evidentiary procedures, but the Superintendent will be given an opportunity to address the charges.

The Board shall notify the Superintendent of its decision, in writing, within fifteen (15) days of the close of the hearing or, if no hearing is requested, within fifteen (15) days of the Board's receipt of the Superintendent's written response to the charges.

- D. In the event of termination of this Contract during its term under any of the above provisions, this Contract shall automatically terminate and the Board shall have no further obligation hereunder, except as is otherwise specified in Paragraph 6B.
  - E. The foregoing standards and procedures for termination of this Contract during its term shall not be applicable to non-renewal of this Contract at its expiration, which decision is discretionary with the Board and shall be governed by the notification requirement established in Section 1229 of the Revised School Code, or its successor provision.
7. **Suspension.** Whether pending the procedures set forth in Paragraph 6C or pending an investigation of the conduct of the Superintendent, the Board may, in its sole discretion, direct that the Superintendent be suspended from all or any part of the performance of his responsibilities and may assign the performance of such responsibilities to another person or persons. Such suspension of responsibilities shall be without loss of salary or other benefits until the Superintendent is either reinstated or the Board renders its decision under this Contract.
8. **Work Schedule/Vacation.** The work year of the Superintendent is 260 working days less vacation, sick, and personal days as hereinafter provided. The Superintendent shall remain on call during Winter Holiday and Spring Break. The Superintendent shall schedule use of "vacation days" (25 days per year) in a manner to minimize interference with the orderly operation and conduct of business of the School District. There will be no amount paid to the Superintendent for unused vacation days. The Board further grants to the Superintendent days off for the following holidays:

- July 4<sup>th</sup>
- Labor Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Eve Day
- Christmas Day
- New Year's Eve Day
- New Year's Day
- National President's Day
- Memorial Day
- Plus one (1) additional holiday to be selected

9. **Evaluation.** The Superintendent's performance shall be evaluated with goals and priorities being established no later than October 1 and a formal evaluation and assessment of the established goals and priorities no later than June 30 annually.

10. **Disability or Incapacity.** In the event of the Superintendent's mental and/or physical incapacity to perform the duties of his assignment, he shall be granted an initial leave up to ninety (90) work days for purpose of recovery. This leave shall run concurrently with any leave for which the Superintendent is eligible under the Family and Medical Leave Act and its implementing regulation.

The Superintendent shall first exhaust any accumulated sick leave and accrued vacation time, with the balance of the ninety (90) work day period to be remunerated under the District's short-term disability plan, according to the eligibility and payment terms and conditions of that plan.

Premium payments for health insurance coverage to the Superintendent (and his dependents) during his absence shall be paid to the extent of the Superintendent's eligibility for leave under the Family and Medical Leave Act and according to the Board and employee premium contributions required in Paragraph 13 of this Contract.

In order to utilize leave under this provision, the Superintendent shall first furnish medical certification to the Board respective the necessity for leave. If the Superintendent's leave is taken under the Family and Medical Leave Act, the certification shall be as set forth in form WH380-E, entitled Certification of Health Care Provider for Employee's Serious Health Condition (or its successor form). If the medical certification furnished by the Superintendent is for any period outside of the Superintendent's eligibility for leave under the Family and Medical Leave Act, the certification shall include an assessment of whether the Superintendent is able to perform the essential functions of his position without creating direct threat to the health or safety of either himself or others in the work environment.

The Board may require a second opinion, at Board expense, by a physician selected by the Board.

The Superintendent may request up to 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 written prognosis that the Superintendent will be able to resume his duties at the end of the extended leave interval. Medical certification shall be supplied by the Superintendent as a condition to any leave extension. The Board may require a second opinion at its expense by a physician selected by the Board. Any extensions of leave for this purpose shall be at the discretion of the Board.

Prior to the resumption of duties 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, to the extent that this requirement is not inconsistent with the Superintendent's rights under the Family and Medical Leave Act.

The Superintendent's employment is contingent upon being fit to fully perform the essential responsibilities of the position. In the event the Board determines that the Superintendent is not able to fully perform his essential job functions at the expiration of a leave period, it may terminate this Contract, and shall have no further obligations hereunder. Such action by the Board shall not affect any rights the Superintendent may have under the group long-term disability coverage (Addendum A).

11. **Medical Examination.** The Superintendent agrees to submit to such medical examinations (also including psychological or psychiatric evaluations) and to supply such information and execute such releases as may be required by any underwriter, policyholder or third party administrator providing insurance programs in which the Superintendent is enrolled. Additionally, upon request of the Board, Superintendent shall submit to such medical examinations (also including psychological or psychiatric assessments) to determine if the Superintendent is capable of performing the essential job functions required by his assignment, with or without reasonable job accommodations.

Any examination or disclosure of such information required of Superintendent by the Board shall be job related and consistent with business necessity. Any examination under this section shall be at Board expense and any information obtained from such examination or inquiry shall be considered and treated as confidential. By executing this Contract, the Superintendent authorizes the release of any information by such examining or treating medical personnel with any and all information concerning the Superintendent's employment and any other pertinent information it may have, personal or otherwise, for purposes of assessment and evaluation.

12. **Tenure.** The Superintendent agrees that he shall not be granted continuing tenure in the position of Superintendent or any other non-classroom or administrative position other than that of a classroom teacher, should the probationary period required for acquisition of tenure as a teacher be fulfilled in the District.

13. **Insurance Premium Payments and Co-Payment by Employee.** 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 insurance programs as provided within the Administrator's Handbook, and as set forth in Addendum A. Superintendent shall remit ten percent (10%) of the monthly premium charge for health insurance for the Superintendent and his dependents. The Superintendent agrees to execute the necessary payroll deductions for remittance of this portion of the premium responsibility.
14. **Insurance Carriers.** The Board reserves the right to change the identity of the insurance carrier, policyholder or third-party administrator for any of the above coverage, 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 premiums for any insurance coverage for the Superintendent and 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 School District, by payment of the premium payments required to provide the above-described insurance coverage, shall be relieved from all liability with respect to insurance benefits.
15. **Sick Leave.** If the Superintendent is absent from duty on account of personal illness or disability, he shall be allowed full pay for a total of eighteen (18) days per fiscal year. Unused paid sick leave days hereunder may accumulate without limit. Paid leave days are to be used for personal and family illness, bereavement, and other uses mutually agreed upon by the Board and Superintendent. Upon the Superintendent's resignation or retirement, he will be paid \$50.00 per day for all paid leave days accumulated.
16. **Personal Leave.** The Superintendent shall also receive three (3) personal business days per year.
17. **Reimbursements.** The Superintendent shall be eligible to be reimbursed for travel, meals and lodging in accordance with per diem expense and reimbursement standards and procedures established 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.
18. **Professional Dues.** The Board shall pay one hundred percent (100%) of the Superintendent's membership charges, fees and/or dues to appropriate professional and civic organizations in which the Superintendent feels membership is advisable to improve and maintain his professional skills and/or enhance the mission of the school district, as permitted by state law and as approved by the Board in the annual budget.

19. **Errors and Omissions Coverage.** The Board agrees to pay the premium amount for School Board errors and omissions insurance coverage which includes the Superintendent while engaged in the performance of a governmental function and while the Superintendent is acting within the scope of his authority. The policy limits for this coverage shall be not less than six million dollars (\$6,000,000.00). The terms of the errors and omissions insurance policy shall be controlling respecting defense and indemnity of the Superintendent but in no case shall the coverage be extended to any demands, claims, suits, actions and/or legal proceedings brought against the Board or the School District by 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 amounts and/or at a reasonable premium rate, the Board shall have the right to discontinue said coverage and shall so notify the Director. In that event, the Board agrees on a case-by-case basis to consider providing legal defense and/or indemnification to the Superintendent as is authorized under MCLA 691.1408.
20. **Entire Agreement.** This Contract contains the entire agreement and understanding by and between the Board and the Superintendent with respect to the employment of the Superintendent, and no representations, promises, contracts 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. No change or modification of this Contract shall be valid or binding unless it is in writing and signed by the Superintendent and the Board. No valid waiver of any provision of this Contract at any time shall be deemed a waiver of any other provision of this Contract at such time or at any other time.
21. **Severability of Provisions.** If any provision of this Contract becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Contract shall continue in full force and effect without said provisions.
22. **Governing Law.** This Contract shall be governed in accordance with the laws of the State of Michigan.
23. **Amendment.** This Contract may be amended only by an instrument in writing signed by both of the parties hereto.

IT WITNESS WHEREOF, the parties have caused this Contract to be executed in their respective names and in the case of the Board of Education, by its President and Secretary on the 26<sup>th</sup> day of October, 2010.

Paul Dillery Dr. David B. Chapin  
Witness Dr. David B. Chapin, Superintendent

Paul Dillery Babette Krause  
Witness Babette Krause, President of the Board of Education

Paul Dillery Donna Rich Kaplowitz  
Witness Donna Rich Kaplowitz, Secretary of the Board of Education



**ADDENDUM A**

Fringe benefits paid by the School District:

1. Group life insurance three times annual base salary, plus AD&D.
2. Full-family group hospital, medical, surgical, dental and vision coverage, as included in the Administrator's Handbook.
3. Group long-term disability coverage, 60% of salary, as included in the Administrator's Handbook.