

# BERKLEY SCHOOL DISTRICT

## SUPERINTENDENT

### EMPLOYMENT AGREEMENT

The Board of Education of the Berkley School District ("the Board") wishes to employ **Dennis McDavid** ("the Superintendent") to serve as the Superintendent of Schools of the Berkley School District ("the District").

The Superintendent wishes to serve the Board and the District according to the following terms and conditions.

#### THEREFORE, IT IS AGREED:

1. **Term:** The District will employ the Superintendent for the period from July 1, 2018 to June 30, 2021. The terms of this Agreement will extend for one additional year, and from year to year thereafter, unless the Board gives the Superintendent written notice of nonrenewal as required by Section 380.1229 of the Revised School Code.
2. **Tenure:** The Superintendent will not have or acquire tenure as Superintendent of Schools or in any other administrative or assigned capacity. The District's failure to continue the Superintendent's employment after the term of this Agreement, or re-employ him in any other capacity, will not be considered a breach of this Agreement.
3. **Qualifications:** The Superintendent represents and warrants he meets, and will continue to meet, at least the minimum qualifications and certifications required by the State of Michigan to serve as the District's Superintendent of Schools.
4. **Duties:** The Superintendent represents and warrants he or she is able, and will continue to be able, to serve as the District's Superintendent of Schools in a competent and professional manner in compliance with applicable laws, policies and regulations adopted by the Board and as otherwise directed by the Board. The Superintendent's duties include, but are not limited to: preparing the Board agenda, as directed by the Board; attending Board of Education meetings and committee meetings, unless excused by the Board's President; and, on occasions, attending such other District and civic functions and activities related to the District's interests within the community serviced by the District.
5. **Conflicts of Interest:** The Superintendent will not possess or acquire, directly or indirectly, any interest adverse to the District. If a question arises whether the Superintendent possesses or has acquired an impermissible conflict of interest, the Superintendent will, as soon as practicable, fully disclose the questioned interest to the Board for its review and disposition, which disposition will be controlling.

6. Compensation:

- A. Base Salary: For the 2018-19 school year, the Superintendent's base salary will be \$175,238.00. For the 2019-20 and 2020-21 school years, the Superintendent's base salary will be \$180,238.00. The Superintendent's salary is subject to any adjustments recommended by the Superintendent Evaluation and Compensation Committee and approved by the Board of Education.
- B. Salary Formula: For the 2020-21 school year, should the audited Fall count be equal to or greater than the audited Fall count of the previous fiscal year, the Salary will be adjusted to reflect the "true, net" percentage increase to the District's state school aid foundation allowance from the previous school year, less one-half percent, but in no case will the percentage increase be higher than 2.0%. The "true, net" percentage increase will be defined and calculated by determining and considering the state aid funding components the Michigan state legislature utilizes to arrive at the foundation allowance increase. The timing of the payment of the increment will be dependent upon when the District is officially notified of the final foundation allowance figure from the Department of Education for each applicable fiscal year of this provision. Should an adjustment(s) happen to the District's official foundation allowance during any year of this agreement, a corresponding adjustment will be made by the District to the salary formula and salary but in no event shall the salary be less than the 2019-20 schedule.
- C. Tuition reimbursement: One (1) class toward doctorate degree, per semester, inclusive of mileage costs.
- D. Tax Sheltered Annuity: The District will, after the first payroll period occurring in February of each year the Superintendent is employed by the District as the Superintendent of Schools, contribute \$20,000 on the Superintendent's behalf to a tax sheltered annuity plan chosen by the Superintendent and approved by the Board.
- E. Fund Balance Sharing: For each year of this contract, the District shall pay the Superintendent 1% of his current salary, one time, off schedule, should the District's audited General Operating Fund Balance figure for that year equal or exceed 9.5%. Timing of payment will occur and be made to the Superintendent after the fiscal year financial audit is completed.

7. Fringe Benefits:

- A. Insurance: The Superintendent will be afforded the same hospitalization, dental and other insurances (including long-term disability insurance) available to other administrators employed by the District, as such coverage now exists and may

be modified from time to time. (Reference: Association of Berkley Administrators "Administrator Benefits Policy Handbook").

The Superintendent will have the option to select medical/prescription coverage from one of the following options:

Beginning January 1, 2019, the annual District paid amounts shall adjust to the maximum payment permitted by Section 3 of the Publicly Funded Health Insurance Contribution Act. However, beginning July 1, 2018, the Hard Cap increase will take effect.

- 1) MESSA CHOICES - \$1000/\$2,000 in network deductible, \$20 OV/\$25 UC/\$50 ER and Saver Rx Prescription coverage.
- 2) MESSA CHOICES - \$2000/\$4,000 in network deductible, \$20 OV/\$25 UC/\$50 ER and Saver Rx Prescription coverage.
- 3) MESSA ABC Plan 1 (HEQ/HSA) - \$1,350/\$2,700 in network deductible, Saver Rx Prescription coverage.
- 4) Parties agreed to explore at fourth (4th) option should MESSA develop a cost savings plan during the life of this Agreement

At the Superintendent's option, the District will pre-fund \$1,000/\$2,000 of the deductible amount annually to each member's HEQ HSA. One-half of the amount shall be paid on or before the last pay in January and the other half on or before the last pay in July each year. The District shall pay the remainder of the hard cap cost towards the MESSA annual medical premium up to the amounts specified above for single, self/spouse, self/child and family. Members may contribute additional money towards their HEQ HSA up to the maximum amount allowed by Federal law.

The remaining annual cost for the elected medical plan premiums and the pre-funded balance that exceeds the Hard Cap amounts, if applicable, shall be paid by the Superintendent and will be payroll deducted in equal bi-weekly amounts through a qualified Section 125 Plan.

\$500 per month cash payment in lieu of selecting health coverage in which event the administrator would receive ancillary benefits (dental, vision, life and long term disability coverages), fully paid by the District. The cash-in-lieu benefit will be paid in equal installments via the Superintendent's bi-weekly paycheck.

The following ancillary benefits shall be also be provided to the Superintendent at no premium cost:

- Dental – ADN, self-funded with the following coverage:

Class I – 100%

Class II – 90%  
Class III – 90%  
Class IV- Ortho Services 90%  
Annual maximum - \$1,000  
Ortho maximum - \$1,000  
2 cleanings/yr

- Vision – National Vision Administration (NVA)
- Life/Long Term Disability (LTD) – Reliance Standard Life
- Life – Three times salary term life insurance coverage
- LTD – 70% of normal monthly earnings after a qualifying period of ninety (90) days up to a maximum of \$10,000 monthly benefit

B. Retirement: The District will assume the full cost of employer contributions for the Superintendent to the Michigan Public School Employees Retirement System (MPSERS).

C. Vacation: The Superintendent may take up to 30 paid vacation days per school year in which he is actively employed as Superintendent of Schools, upon advance written notice to the Board's President. Additionally, the Superintendent may be absent from the District during winter and spring school breaks, upon approval of the Board's President. The Superintendent may accrue up to a maximum of 15 unused vacation days per school year, which the Superintendent must use or be paid for in the following school year. Otherwise, the Superintendent may not accrue, and will not be paid for, unused vacation days. Payment for accrued and unused vacation days, as set forth in this subparagraph, will be at a per diem rate equal to a fraction the numerator of which is the Superintendent's base salary and the denominator of which is 260.

Up to five (5) unused vacation days may be carried over and used during the abbreviated summer work schedule in July and August. These days cannot be returned for payment or rolled over if not used during the summer work schedule.

D. Paid Time Off: The Superintendent will be afforded the same Paid Time Off benefits (excluding vacation) available to other administrators employed by the District, as such leave benefits now exist and may be modified from time.

E. Workers' Compensation: Upon determination of eligibility for workers' compensation benefits pursuant to Michigan's Workers' Compensation Disability Act, the District will pay the Superintendent of Schools, the difference between his base salary and his workers' compensation allowance for a period not to exceed the lesser of his sick leave bank or 200 calendar days.

- F. Errors and Omissions: The District will afford the Superintendent the same insurance coverage for errors and omissions as is afforded members of the Board of Education.
- G. Jury Duty: The District will pay the Superintendent his base salary during any period of jury service. The Superintendent will remit to the District any jury fee received from the Court, exclusive of any amount received for travel.
- H. Mileage: The Superintendent will receive an annual mileage stipend of \$1,980
- I. Longevity Payment: A longevity payment of 1% of current salary will be paid at Year 5 of service in the District. A longevity payment of 1.5% of his current salary will be paid at Year 10 of service in the District. A longevity payment of 2% of his current salary will be paid at Year 15 of service in the District. Longevity payments will be processed on the last regular payroll date of the fiscal year. For purposes of calculating placement on "Longevity" schedule, administrators hired before December 31st will be considered hired as of July 1st of that same year.
- J. Severance Benefit: The Superintendent will be eligible for a severance benefit after he has been actively employed by the District for at least ten consecutive years and chooses to separate from the District. The District will pay the Superintendent a severance benefit equal to 2% of his annual salary at his date of termination multiplied by the number of years he was actively employed by the District plus, \$15.00 for every day in his personal sick bank up to a maximum of 200 days. Said pay shall be provided to the Superintendent via a 403b, non-elective deferral account.

8. Professional Development: The Board will, consistent with budget constraints and policy, support the Superintendent's professional development by paying membership charges for professional organizations proposed by the Superintendent and approved by the Board. Additionally, the Superintendent may, upon request, pay the Superintendent's reasonable expenses for attending appropriate professional meetings at the local, state and national levels.

9. Expenses: The Board will, consistent with budget restraints and policy, reimburse the Superintendent for reasonable and necessary expenses incurred on District business. The Superintendent will submit itemized expense statements, on a monthly basis, to the Board President prior to reimbursement.

10. Evaluation: The Board will evaluate the Superintendent's performance no later than March 1 of each school year. The Superintendent will notify the Board of this deadline in writing, no later than February 1 of each school year. The Superintendent's evaluation will be based on criteria mutually agreed to by the Superintendent and the Board; provided, however, the Board will establish the criteria in the absence of mutual agreement. The Superintendent's

evaluation will include consideration of his or her compensation and fringe benefits for the following year of his or her employment as Superintendent of Schools

11. Indemnification: The District will indemnify and hold harmless the Superintendent from and against all claims, suits, judgments, damages, liabilities, costs and expenses arising from actions taken or decisions made in good faith within the scope of his or her employment as Superintendent of Schools. The Superintendent will immediately notify the Board of any request for indemnification for any claim or action against him. The Board and the District have the right to conduct the defense of any such claim or action and the Superintendent will fully cooperate with the Board and the District in the defense. This paragraph will not apply to cases in which the Superintendent is a plaintiff and/or in cases arising from or relating to this Agreement.

12. Termination: This Agreement will terminate on June 30, 2021. The Superintendent enters into this Agreement with no expectation of continued employment with the District beyond that date. Prior to June 30, 2021, the Board and the District will not terminate this Agreement except for reasonable and just cause, including acts of moral turpitude and violations of the terms of this Agreement.

13. Limitations of Actions: The Superintendent and the District agree that any civil action or administrative complaint arising from or relating to the Superintendent's employment with the District, the termination of the Superintendent's employment with the District or this Agreement must be filed no later than 180 calendar days from the date on which the civil action or administrative complaint accrued or no later than 180 days from the termination of the Superintendent's employment, whichever is sooner. The District and the Superintendent waive any longer limitations period. This paragraph is not intended to, and should not be construed, to extend any statutory limitations period shorter than 180 calendar days.

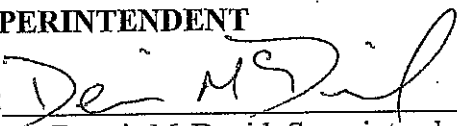
14. Binding Arbitration: The Superintendent and the Board and the District agree that, except as set forth in this paragraph, any and all claims, demands, actions and causes of action whatsoever, arising from or relating to the negotiation, execution and interpretation of this Agreement will be submitted to final and binding arbitration according to the American Arbitration Association's National Rules for the Resolution of Employment Disputes. The Superintendent, the Board or the District may move for entry of judgment on such an arbitration award in any court of competent jurisdiction. Limitation and Exception: The arbitrator does not have jurisdiction to reinstate the Superintendent if the Board has terminated this agreement (but may award damages for breach of contract), regardless whether the termination was for reasonable and just cause. Furthermore, this arbitration agreement does not apply to a decision by the Board not to renew this Agreement, which decision may not be submitted to final and binding arbitration.

15. Waiver of Breach: The Board and the District will not waive any breach of any provision of this Agreement except in writing. Such a waiver will not waive future breaches.

16. Severability: If any provision of this Agreement is prohibited by the laws of the United States or the State of Michigan, that provision will be unenforceable without invalidating the remaining provisions of this Agreement.

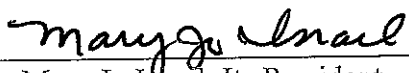
17. Entire Agreement: This Agreement is the parties' entire agreement and supersedes any other prior or contemporaneous agreement, written or verbal. This Agreement may not be modified or rescinded except by another written agreement, approved by the Board in a public meeting, and signed by both parties.

**SUPERINTENDENT**

By:   
Dennis McDavid, Superintendent

Date: August 14, 2018

**BOARD OF EDUCATION OF THE  
BERKLEY SCHOOL DISTRICT**

By:   
Mary Jo Israel, Its President

Date: 10-1-18

By:   
Ron Justice, Its Secretary

Date: 10-8-2018