

# CONTRACT OF EMPLOYMENT

## **Superintendent of Schools**

It is hereby agreed by and between the Board of Education of the Lakeshore Public School District (hereinafter "Board") and Philip S. Freeman (hereinafter "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 June 25, 2019, has and does hereby extend the employment of the said Superintendent for a period commencing on July 1, 2019 and ending on June 30, 2022, according to the terms and conditions as described and set forth herein 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/her responsibilities and directions related thereto.
2. The Superintendent represents that he/she 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.
3. The Superintendent agrees to devote his/her 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 with respect thereto. 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 during the entire term of this Contract. The Superintendent agrees that he/she will diligently and competently discharge his/her duties on behalf of the School District to enhance the operation of the School District and will use his best efforts to maintain and improve the quality of the programs and services of the School District.
4. The evaluation of the Superintendent shall be conducted annually and presented to the Superintendent no later than March 31<sup>st</sup> of each year during this contract. The Superintendent's performance shall be evaluated using multiple rating categories that take into account data on student growth as required by Section 1249 of the Revised School Code (or its successor provision). The Superintendent shall remind the Board of this responsibility.
5. Unless the Board gives written notice of non-renewal of this contract to the Superintendent at least 90 days prior to the end of the current contract year, this contract will, without further action, be automatically renewed for an additional year period. The Superintendent shall annually advise the Board of Education of this obligation in the month of March each year.

6. The Superintendent shall be paid at an annual (twelve month) salary rate of not less the following:
  - a. July 1, 2019 through June 30, 2020 = \$147,600
  - July 1, 2020 through June 30, 2021 = \$151,300
  - July 1, 2021 through June 30, 2022 = \$155,100

The base salary shall be paid in equal installments. The annual salary shall be paid in twenty-six (26) equal bi-weekly installments beginning with the commencement of the fiscal/contract year (July 1 - June 30).

7. The Superintendent shall receive deferred compensation in the form of a tax sheltered annuity in an amount equal to 15% of the annual base salary to be placed in an Employer 403 B Plan.
8. Following the annual contract and performance review, the Board may authorize an additional stipend to be paid to the Superintendent under this section in recognition of meritorious performance. Meritorious performance will be determined by the Board and will be based upon an assessment of performance in previously established goal areas. The stipend will be equal to zero to seven percent (0-7%) of the base salary as established in section 6 of this contract.
9. Graduate Study. The Board shall reimburse the Superintendent up to \$2,500 per year for expenses incurred for graduate study or other study related to certification and endorsement of his choice that has been approved by the Board as furthering his ability to carry out his responsibilities as the superintendent of the District.
10. The Superintendent shall be provided a monthly car allowance of \$300 for use of his personal automobile in fulfilling the Superintendent's responsibilities within Berrien County. Reimbursement for necessary business travel outside of Berrien County shall be at the current rate per mile established by the IRS.
11. 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. Any expense to be incurred by the Superintendent for out-of-district travel shall be submitted in advance for review and approval by the Board or its designee. The Superintendent shall be required to present an itemized account of his/her reasonable and necessary expenses in accordance with direction of the Board or its designee.
12. Subject to express approval by the Board, the fees or dues for membership in appropriate professional organizations shall be paid by the Board. Subject to prior approval by the Board, the Superintendent may attend appropriate professional meetings at the local, state and national levels and shall be reimbursed for any registration fees, tuition, travel, lodging and/or reasonable meal expenses for himself in relation thereto not prepaid by the Board up to the amount of \$2,500.00.
13. Upon application and verification (official Transcripts) of an earned doctoral degree, the Superintendent shall be eligible to receive an annual, lump sum stipend of \$2500.

14. The Board hereby retains the right to increase the annual salary of the Superintendent during the term of this Contract. Consistent with the provisions of Section 1250 of the Revised School Code, Administrator'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 Contract shall be in the form of a written amendment and when executed by the Superintendent and the Board, shall become a part of this Contract.
15. The Superintendent is employed on the basis of fifty-two (52) weeks of work per contract/fiscal year (July 1 through June 30) as scheduled by the Board. The Superintendent shall be granted vacation time of 25 days per fiscal year. The Superintendent may carry over up to 10 vacation days per year (five of which must be used in the subsequent July) upon notification to the Board President. The Superintendent shall schedule use of vacation days in a manner to minimize interference with the orderly operation and conduct of business of the School District. All scheduling of vacation is subject to the approval of the Board.
16. The Superintendent is entitled to the following holidays for which no service to the School District is required: winter recess (5 days), Memorial Day, Independence Day (if weekend, can use day before or after), Friday before Labor Day, Labor Day, Wednesday before Thanksgiving (if school is not in session), Thanksgiving Day, and the Friday after Thanksgiving, Dr. Martin Luther King Day (if school is not in session), President's Day (if school is not in session), and the Friday before spring break (if school is not in session).
17. Leave of Absence and Sick Leave: At the beginning of each school year, the Superintendent will be credited with fourteen (14) days leave plus those days accumulated from previous years but not more than 120 work days. These days may be used for General Leave which includes: personal illness, family illness, funerals, and personal reasons under the following limits and conditions.

LIMITS:

- a. Personal Illness: Only ten (10) consecutive days of absence may be used.
  - b. After ten (10) consecutive days of absence, an administrator must apply for Catastrophic Leave described below.
  - c. Catastrophic Leave: Use of additional credited leave days may be granted to an administrator upon application to and approval by the Superintendent for any leave that exceeds ten (10) consecutive work days.
  - d. Personal: No more than two (2) days per year may be used for this purpose.
18. The Board shall be entitled to terminate the Superintendent 's employment at any time during the term of this Contract for just cause, including but not limited to, acts of moral turpitude, misconduct, conviction of a felony, or if the Superintendent materially breaches the terms and conditions of this Contract. In the event that the Board undertakes to dismiss Administrator during the term of this Contract, he shall be entitled to written notice of charges and an opportunity for a hearing before the Board.
  19. In the event of any dispute between the parties including but not limited to, non-renewal or 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 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 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 the 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 fee and the costs imposed by the American Arbitration Association shall be shared equally by the Board and the 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 Superintendent'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 2nd Judicial Circuit of Michigan (Berrien County), pursuant to MCL 600.5001.

20. In the event of the Superintendent's mental and/or physical incapacity to perform the duties of his/her office, he shall be granted an initial leave of ninety (90) work days for purpose of recovery. 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 unpaid. 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 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/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 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 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.

21. It is expressly agreed that Superintendent shall not be deemed to be granted continuing tenure in the capacity as Superintendent or in any other administrative capacity by virtue of this Contract of Employment.
22. The 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 administrator providing insurance programs specified under this Contract. 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/her assignment, with or without reasonable job accommodation(s). Any physical or mental examination or disclosure of such information required of administrator 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.
23. 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 enrollment in the insurance programs contained within the "Working Guidelines for Central Office Administrators," including Health Care, Dental, Vision, Long Term Disability, and Life Insurance.

The Superintendent agrees that the Board has the right to allocate to the Superintendent responsibility for a portion of the premium for the 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 Patient Protection and Affordable Care Act, or the IRS Code. The Board will notify the 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 the Superintendent's responsibility shall be payroll deducted from Administrator's compensation.

24. 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 Agreement. The Board shall not be required to remit premiums for any insurance coverages 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.

25. 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 authority. The policy limits for this coverage shall be not less than \$5,000,000.00. 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. 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 MCL 691.1408 and MCL 380.11a(3)(d).
26. 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 prior or concurrent representations, promises, contracts or understandings, written or oral, not contained herein, shall be of any force or effect. All prior contracts or other agreements (written or oral) pertaining to the terms of this contract are cancelled and are superseded by the terms of this contract. Provided, that this contract is voidable pursuant to the provisions of the Revised School Code pertaining to criminal records and criminal history checks.  
  
No amendment to or modification of this Contract 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 and the President and Secretary of 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.
27. If any provision of this Agreement 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 provision(s).
28. This Agreement is executed on behalf of the Lakeshore Public School District pursuant to the authority granted as contained in the resolution of the Board adopted on June 25, 2019, the same being incorporated herein by reference.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first above written.

Date: 6/25/19

  
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Superintendent

Date: 6/25/19

  
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Lakeshore Public Schools Board President

Date: 6/25/19

  
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Lakeshore Public Schools Board Secretary