

SUPERINTENDENT'S EMPLOYMENT AGREEMENT

PARTIES: VERNON ELEMENTARY SCHOOL DISTRICT NO. 9 GOVERNING BOARD (hereinafter called the "Board" or "the District") and Jeffrey A. Fuller (hereinafter called "Superintendent") The Board and Superintendent may be referred to hereinafter individually as "Party" and collectively as "Parties."

RECITALS:

A. The Board is the duly elected, constituted and acting Governing Board of the Vernon Elementary School District No. 9; and

B. The Board desires to employ Superintendent as the Superintendent of the District and the Superintendent desires to be so employed. The Board and Superintendent desire by this Agreement to establish the terms and conditions of Superintendent's employment, consistent with Arizona law, as the same may be amended from time to time, which law, in all events, shall govern this Agreement and supersede any inconsistent provisions herein; and

C. In consideration of the mutual agreements and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is expressly acknowledged and confessed by the Board and Superintendent, it is agreed as follows:

AGREEMENTS:

1. Employment. The Board agrees to employ Superintendent and Superintendent agrees to be employed by the Board for a period commencing October 5, 2020 through June 30, 2021 (hereinafter called the "Term").

2. Duties. Superintendent shall perform the duties of Superintendent of Schools in and for the public schools in the District as prescribed by the laws of the State of Arizona and policies, rules and regulations of the Board. Subject to the Board's personnel policies and the Board's exclusive authority to hire and fire employees and to determine employee compensation and benefits, Superintendent is authorized to organize, reorganize and arrange the central administrative and supervisory staff, including instruction and business affairs, in the manner which, in his judgment, best serves the District.

3. Consideration.

(a) Annual Base Salary: In consideration for the performance of the above-described duties, the Board agrees to pay to Superintendent the annual base salary of \$74,250.00 during the Term, minus mandatory and voluntary deductions. Superintendent's salary shall be payable in biweekly installments at the same time and in the same manner as other professional salaried employees of the District. Should Superintendent believe that there is a mistake in Superintendent's salary, Superintendent shall have Thirty (30) working days to notify the District of the mistake.

(b) ' Performance Based Pay: In accordance with A.R.S. Section 15-341 A (39) and as set forth in Exhibit A hereto, five percent (5%) of Superintendent's annual base salary shall be designated as "performance based pay" and may be earned by Superintendent as set forth in the Performance Pay Plan approved by the Board and attached to this Agreement as Exhibit A and incorporated herein by reference.

4. Superintendent Responsibilities.

(a) Superintendent shall serve as the District's Chief Executive Officer. He/she shall direct and assign teachers and other administrative and classified employees of the District under his/her supervision; shall organize, reorganize and arrange the staffing patterns as best serves the District; subject to the approval of the Board, shall select, supervise and recommend personnel for termination, if necessary in her judgment; shall, from time to time, suggest regulations, rules and procedures deemed necessary for the operation of the District; shall, pursuant to A.R.S. §15-503, administer the Classroom Site Fund provided for by A.R.S. § 15-977 and as the same may be amended from time to time; and, in general, perform all duties incident to the Office of the Superintendent, required by law and the policies of the Board, usually and customarily performed by superintendents in the State of Arizona and such other duties as may be assigned by the Board from time to time.

(b) Superintendent shall devote his/her full time, attention, skill and best efforts to the duties and responsibilities assigned to the Superintendent of the District. The Board expects and encourages Superintendent to continue his/her professional growth by active participation in the meetings, seminars, courses of study, operations, programs, publications and other activities of local, state and national school administration and school board associations, colleges and universities.

(c) As a condition precedent to this Agreement, Superintendent shall hold a valid Superintendent certificate issued by the Arizona Department of Education and shall hold such a certificate at all times during the term of this Agreement. As a further condition precedent to this Agreement, Superintendent shall hold a valid fingerprint clearance card and shall maintain the same throughout the term of this Agreement. Superintendent shall, as a part of his/her evaluation described in paragraph 8, infra, provide a copy of a valid and current fingerprint clearance card to the Board.

(d) Superintendent shall attend all regular, special, and executive Board meetings unless excused by the Board. Superintendent shall be entitled to attend Board committee meetings, all Board and citizen committee meetings, serve as an ex-officio member of all District or Board committees, unless precluded by law, Policy or Board directive, and provide administrative recommendations on each item of business.

5. Benefits.

(a) Tax Sheltered Annuity Election. Upon Superintendent's request, and in accordance with applicable federal and state laws, the District will deduct from Superintendent's salary an amount designated by Superintendent (up to the maximum employee contribution

allowed by the Internal Revenue Code) to a tax deferred annuity program of Superintendent's choice.

(b) Vacation. Superintendent shall be entitled to Ten (10) vacation days during the Term, to be taken at such time(s) as is/are mutually agreeable to the Parties as determined by Superintendent and the Board President. Superintendent may, at his/her discretion, receive payment at his/her annual rate (per diem) for the period accrued for vacation days not taken at the end of the Term, not to exceed Ten (10) days. Other unused vacation days shall accumulate and be treated as provided by District.

(c) Holidays, Leave and Health Benefits. Holiday and leave privileges, insurance and fringe benefits shall be equal to those provided for other 12 month certified administrators of the District.

(d) Automobile Allowance. The Board agrees to provide Superintendent with the use of an automobile for conducting District business providing he/she provide a copy of a valid Driver's license.

(f) Life Insurance Allowance. During the term of this Contract, the District shall pay for a \$100,000.00 term life insurance policy for the Superintendent, subject to the Superintendent's ability to qualify for such insurance at standard rates.

(g) Incidental Food/Beverage. To the extent appropriate for the occasion, the District may provide incidental food and beverages to Superintendent at Board meetings, school sponsored community events, mandatory staff meetings and other meetings or events attended by Superintendent, as a de minimus fringe benefit, in order to foster good working relations and encourage Superintendent's participation.

6. Professional Meetings. Superintendent may, with Governing Board advance approval, attend professional meetings at the local, state, and national level, the reasonable expenses of this attendance to be assumed by the District in accordance with District policy and State law.

7. Professional Memberships: Professional Development Activities: Professional Meetings. The District shall pay up to and including \$500.00 during each fiscal year of this Agreement for Superintendent's dues in Professional Organizations of the Superintendent's choice and which memberships are beneficial to the District. In addition, because Superintendent is encouraged and expected to participate in professional development activities and professional organization, meetings at the local, state and national levels, the District shall pay reasonable and actual expenses of those activities. The Board may, in its sole discretion, authorize Superintendent to expend additional amounts for professional memberships, professional development activities and/or professional meetings. At the end of each term of this Agreement, all unused funds for that term shall revert to the District budget. Superintendent shall ensure that the District maintains a record log of all expenditures for quarterly Board review.

8. Civic Organizations and Community Liaison Endeavors. The Board recognizes the importance of a strong working relationship between the schools and the community, and expects the Superintendent, to participate in civil activities or organizations and to engage in other activities that are intended to provide benefit to the District, such as liaison with elected state, county and municipal officials, public relations and other activities Superintendent shall be

entitled to an allowance for food, travel and other such expenses reasonably and necessarily related to such activities in an amount not to exceed \$500.00 per fiscal year, unless otherwise expressly authorized by the Board. At the end of each fiscal year of this Agreement, all unused funds for that term shall revert to the District budget.- Superintendent shall ensure that the District maintains a record log of all expenditures for quarterly Board. The Board reserves the right to adjust the sum of this allowance upward during any fiscal year upon the request of Superintendent for good cause shown.

9. Reimbursement for Travel and Business Expenses: The District shall reimburse Superintendent for reasonable and necessary travel and business expenses directly incurred by Superintendent in the continuing performance of his/her duties under this Agreement that are not otherwise paid for pursuant to his/her use of a district automobile. Superintendent shall comply with all procedures and documentation requirements in accordance with Board Policies and State law related to reimbursement of said expenses. Superintendent shall ensure that the District maintains a record log of all expenditures for Board review. Superintendent shall provide a record log of all expenditures to the Board on a regular basis and at least every Six (6) months.

10. Professional Liability.

(a) The Board shall provide Superintendent with professional liability insurance coverage to protect Superintendent from liability claims, suits, actions, and legal proceedings brought against Superintendent in her official capacity and as an agent or employee of the District and while acting within the scope and course of said employment and excluding any criminal investigation and/or prosecution. The minimum coverage shall be One Million Dollars (\$1,000,000.00) per occurrence/ Three Million Dollars (\$3,000,000.00) aggregate. This paragraph shall not be construed to require the purchase of additional insurance if a general District policy is already in effect having at least the above minimum coverages. Such liability insurance coverage shall extend to Six (6) years beyond the termination of this Agreement period or termination of employment.

(b) In actions where the Board and Superintendent are co-defendants, and a good-faith disagreement exists as to the manner in which a claim should be defended, Superintendent may retain independent legal counsel for her defense, the cost of which shall be paid or reimbursed by the District, provided, however, that the foregoing shall not be construed to require the District to pay the legal expenses of Superintendent in any actions or proceedings in which the District and Superintendent have adverse interests.

11. Superintendent's Evaluation. The Board shall conduct a formal evaluation of Superintendent at least once per year. Superintendent's evaluation shall be held in executive session.

12. Disability of Superintendent. If Superintendent is unable to perform the essential functions of her position with or without an accommodation, this Agreement will terminate. Until termination of this Agreement, Superintendent shall be entitled to receive insurance benefits and on-going contributions to a tax sheltered annuity. If the parties cannot agree regarding whether the Superintendent is incapacitated, the Superintendent will submit to an examination by a certified physician. The physician will be a person selected by mutual

agreement between the parties, or if the parties cannot agree, Superintendent can choose from one of three qualified physicians nominated by the District. If the physician determines that Superintendent can perform the essential functions of his/her job with a reasonable accommodation, then the Board will consider reasonable accommodations to the extent such accommodations are reasonable and would permit Superintendent to perform the essential functions of his/her position. If Superintendent is determined to be unable to perform the essential functions of his/her job, the Board may act to terminate her employment and/or may determine Superintendent's eligibility for long-term disability. Any disability coverage, long-term or otherwise, will be determined exclusively by Superintendent's disability insurer. Following placement of Superintendent on long-term disability leave, the respective duties, rights and obligations of this Agreement shall terminate.

13. Termination of Agreement During Term of Agreement. Notwithstanding the term of the Agreement set forth in Section 1 above ("Employment"), this Agreement may be terminated as follows:

(a) **Death of Superintendent.** This Agreement is not intended to benefit Superintendent's estate, heirs or assigns, and shall automatically terminate upon the death of Superintendent. All death benefits allowable under District Policy shall be provided.

(b) **Felony Conviction of Superintendent.** This Agreement may be terminated by the Board in its sole discretion should Superintendent be convicted of or enter a plea of no contest or nolo contendere to a felony in any court of competent jurisdiction under the laws of any state or of the United States. The Board's rights hereunder shall not abide the decision of any post-trial motions or appeals. Termination by the Board shall be final and without recourse notwithstanding any reversal of such conviction on appeal or otherwise.

(c) **Termination of Superintendent for Cause.** In the event the District intends to act to terminate Superintendent's employment for good and just cause during the term of this Agreement without Superintendent's written concurrence, Superintendent shall be entitled any and all due process rights as designated by state law.

(d) **Unilateral Termination of Superintendent.** Throughout the term of this Agreement, the Board may terminate this Agreement with or without cause by paying to Superintendent an amount equal to the total remaining Annual Base Salary and the full value of any Performance-Based Compensation not yet earned. Superintendent accepts said payment as his/her sole remedy under this Agreement a condition precedent to receiving the Severance Payment. Superintendent shall execute a severance agreement acceptable to the Board, which shall include Superintendent's: (i) full release of the Board, District, their agents and employees from any and all claims, including but not limited to, demands, damages, causes of action or liability arising out of Superintendent's employment or termination of employment with District; and (ii) agreement not to initiate or cause to be initiated any lawsuit, claim, grievance proceeding or investigation of any kind, under any contract, law or regulation, pertaining to his/her employment with District up to the date of the signing of the Agreement. Upon signing the Agreement the Board, the District, and its agents will release Superintendent from all claims arising out of Superintendent's employment with the District.

(e) Mutual Agreement. This Agreement shall terminate upon written agreement between Superintendent and the Board.

14. Harmless and Indemnified. The Board agrees that it shall defend, hold harmless and indemnify the Superintendent for up to 5 years after Superintendent's separation from District employment, from any and all demands, claims, actions and legal proceedings brought against Superintendent in his/her individual capacity or his/her official capacity as agent and employee of the Board, providing the incidents arose while Superintendent was acting within the line and scope of her employment, but excluding intentional wrongful, negligent, and/or criminal acts and litigation.

15. Understanding of Terms. Superintendent acknowledges that he/she has had opportunity to have this Agreement reviewed by legal counsel of her choice and at his/her expense, and to receive advice concerning it. In the event that Superintendent has not sought or received such advice of counsel, Superintendent warrants to the Board that he/she fully understands all of the agreements and covenants contained herein and that his/she, in his/her sole discretion, has deemed such advice unnecessary.

16. Applicable Law. This Agreement is made and entered into in Arizona, and shall be governed by the laws of the State of Arizona. The venue for any litigation arising out of this Agreement and the employment relationship shall be Apache County, Arizona.

17. Construction Against Third-Party Beneficiary Contract. This Agreement is not intended as nor shall it be construed as an agreement for the benefit of any third party except as may be expressly provided for herein.

18. Integration of Prior Agreements. Unless otherwise stated therein, no prior agreements or understandings between the Board and Superintendent shall be a part of this Agreement, it being expressly agreed that any and all such agreements and understandings are merged in this Agreement.






19. Illegality of Particular Term. If any term or condition of this Agreement shall be found and finally declared to be illegal or against the public policy of the State of Arizona by a court of competent jurisdiction, then this Agreement shall nonetheless continue and shall be enforceable as though the part so found illegal or against the public policy did not exist.

20. Attorney's Fees. In the event of any dispute between the Board and Superintendent arising under or in relation to this Agreement, the prevailing party shall be paid reasonable attorney's fees.

21. Waiver. The waiver by either party of any covenant, term, condition or provision of this Agreement or any breach thereof shall not be deemed to be a waiver of any subsequent contravention or breach of same or any other covenant, term, condition or provision herein contained. No covenant, term, condition or provision of this Agreement shall be deemed to have been waived by either party, unless such waiver is in writing, signed by both parties, and properly approved by the Board.

IN WITNESS THEREOF, the Parties indicate their agreement to the above terms by affixing their signatures below.

Vernon Elementary SCHOOL DISTRICT BY:

 _____ President	9-25-20 _____ Date
 _____ Laruna S. Hunt	9/23/20 _____ Date
 _____ Vice President	9/23/20 _____ Date
 _____ Member	9-23-20 _____ Date
 _____ Member	9-23-2020 _____ Date
_____ Member	_____ Date

Superintendent:

 _____ Superintendent	9/24/2020 _____ Date
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22. Amendment and Modification. This Agreement shall not be amended or modified except by writing signed by the Parties and duly and lawfully approved by the Board in accordance with the law.
23. Construction of Headings. Paragraph and subparagraph headings are included herein for ease of reference and shall not be construed as varying or altering the meaning or construction of the language contained thereafter.
24. Notice. If the date notice required hereunder falls on a weekend or holiday, the notice shall be timely if given on the first following business day. Any notice required to be given hereunder shall be hand-delivered or sent by United States certified mail, return receipt requested, and addressed to: (a) in the case of Superintendent, the District Office, or upon his/her written request, to his/her home address as on file in the District office, and (b) in the case of the Board, the District Office.
26. Conflict of Interest. This Agreement may be terminated in accordance with A.R.S. §38-511, the terms of which are incorporated herein by reference.
27. Non-Discrimination. The parties agree to comply with all provisions of applicable federal, state and local laws relating to non-discrimination and equal employment opportunity.
28. Effective Date. This Agreement shall be effective upon approval by the Governing Board at a properly noticed public meeting and upon the signing of this Agreement by both parties.

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