

VERNON ELEMENTARY SCHOOL DISTRICT NO. 9

INTERIM SUPERINTENDENT'S EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT is made and entered into by and between the Governing Board (the "Board" or "Governing Board") of the Vernon Elementary School District No. 9, a political subdivision of the State of Arizona (the "District") and (Shad Housley) ("Superintendent").

WHEREAS, the Governing Board desires to provide for the orderly administration of the District's employees and schools, to maintain and continuously improve the quality of the District's overall education program, and to employ Superintendent to fulfill these and other functions as more specifically set forth herein; and

WHEREAS, Superintendent desires to perform such functions upon the terms and conditions more fully set forth herein;

NOW THEREFORE, the Governing Board and Superintendent, in consideration of the foregoing, agree as follows:

1. **Term.** The Board employs Superintendent, and Superintendent accepts employment as Superintendent, for a full-time position commencing on July 11, 2022 and ending June 30, 2023.

2. **Professional Certification and Responsibilities.**

2.1 **Certification.** Superintendent shall hold and maintain throughout the term(s) of this Agreement a valid Administrative Certificate issued by the State of Arizona and a valid fingerprint clearance card, which shall be on file in the District at all times. All offers of employment, including continuing employment, are contingent on a successful fingerprint clearance check and compliance with this paragraph.

2.2 **Superintendent's Duties and Responsibilities.** Superintendent shall be the District's Chief Executive Officer. Superintendent shall be responsible to the Board and shall be responsible for the general administration of the school system. Superintendent's duties and responsibilities shall include, but not be limited to, the following:

2.2.1 Those set forth in Board Policy CB, "School Superintendent;" Board Policy CBA, "Qualifications and Duties of Superintendent (Performance Responsibilities);" and Board Policy CBCA, "Delegated Authority," as those Policies currently exist and as may be revised during the term of this Agreement;

2.2.2 In cooperation with the Board, Superintendent will be responsible for the implementation of the mission, vision and the educational goals for the District;

2.2.3 The development, implementation and evaluation of a strategic plan for the District that is consistent with the District's educational goals and that optimizes student learning, facilities use and expenditures. Superintendent shall develop the strategic plan in consultation with the Board; and

2.2.4 The performance of such other reasonable duties or tasks as the Board may assign or delegate to Superintendent from time to time.

3. **Compensation.**

3.1 The District agrees to pay Superintendent an annual base salary of \$100,000.00. Superintendent's annual base salary shall be payable in regular installments at the same time and in the same manner as other 12-month salaried employees of the District, with the exception of the performance based pay described in paragraph 3.2 below.

3.2 In accordance with A.R.S. § 15-341(A)(39), the parties agree that during the entirety of this Agreement, 3% percent of Superintendent's annual base salary (as set forth in paragraph 3.1 herein) shall be designated as "performance based pay", and shall be withheld from Superintendent's base salary. Attached to this Agreement and incorporated herein by reference as Exhibit A is the Performance Pay Plan that has been approved by the Board contemporaneously with this Agreement which shall govern the award of "performance based pay."

3.3 Should Superintendent believe that there is a mistake in Superintendent's annual base salary, Superintendent shall have thirty (30) working days of the date this Agreement is signed or initial payment is made to notify the District of the mistake.

3.4 Should the Board require there to be a reduction in salary affecting employees of the District for any given school year, Superintendent's salary may also be decreased in accordance with the reduction plan.

4. **Work Calendar.** Superintendent agrees to devote his time, skill, labor and attention to the duties of Superintendent of the School district and shall follow the established work schedule of other administrators in the District.

5. **Medical/Health Insurance Benefit.** The District shall provide Superintendent, at District expense, with the medical/health insurance benefits provided to other eligible District employees under the District's group health insurance plan in effect during the term of this Agreement.

6. **Professional Liability Coverage.** The Board agrees that it shall provide indemnification and liability insurance for Superintendent under the District's insurance policy. Such insurance policy shall provide coverage to Superintendent from any and all demands, claims, suits, actions and legal proceedings brought against Superintendent in his individual capacity or in his official capacity as an agent under employment of the District, provided the incident arose while Superintendent was acting within the scope of his employment.

7. **Vacation & Personal Leave.** Superintendent shall be entitled to paid time off pursuant to the terms of the applicable District policy, exclusive of legal holidays. Paid time off may be accumulated during the term of this Agreement. At the option of Superintendent, up to 10 earned and unused paid time off days may be paid out by the District at any time during each fiscal year of this Agreement. Upon his resignation, retirement or non-renewal (but not his termination for cause), Superintendent shall be entitled to be paid his then per diem rate of pay for all earned but unused paid time off days up to a maximum of 30 days. Should Superintendent be renewed for additional terms of employment at the expiration of this Agreement, Superintendent may carry forward up to 10 days and to be paid at the per diem rate of pay for all other earned and unused paid time off days to a maximum of 30 days. Superintendent shall follow the personal leave schedule of all other administrators. Superintendent shall be entitled to sick leave pursuant to the terms of the applicable District policy or superseding law.
8. **Holidays.** Superintendent shall be entitled to the same holidays as other professional staff members.
9. **Professional Memberships; Community Involvement.** Superintendent shall, at the District's expense, maintain annual memberships in organizations that are relevant to the District. A fund of \$2000.00 shall be established in the District's budget to cover such activities. Superintendent may, during the term of this Agreement, maintain memberships in such other civic, educational and professional organizations as Superintendent and the Governing Board mutually agree will benefit Superintendent and the District. Membership fees and reasonable costs of participation, as pre-approved by the Board, shall be borne by the District. At the end of each fiscal year, all unused funds shall revert to the District budget. Superintendent shall ensure that the District maintains a record log of all expenditures for Board review.
10. **Reimbursement of Travel and Business Expenses.** If Superintendent travels to conferences, state or regional meetings upon the Board's request and/or with the Governing Board's permission, the District shall pay for appropriate travel-related expenses, pursuant to applicable Board Policies, Administrative Regulations and state law. The District shall pay or reimburse Superintendent for other lawful, reasonable and necessary travel and business expenses incurred by Superintendent in the performance of his duties under this Agreement. The District's reimbursement of expenses under this Section shall be only for job-related expenses. Superintendent shall comply with all procedures and documentation requirements in accordance with Governing Board Policies, Administrative Regulations and state law.
11. **Professional Development.** Superintendent shall continue his professional development and may participate in relevant learning experiences, including attending professional meetings at the local, State and national levels. The Board shall establish a fund of \$2,000.00 annually to pay for such professional development activities. The Board, in its sole discretion, may approve the expenditure of additional funds for Superintendent's professional development activities. Superintendent shall seek prior Board approval regarding attendance at any out of county professional development meetings. Travel expenses associated with such meetings will be reimbursed in accordance with District policy. At the end of each fiscal year, all unused funds shall revert to the District budget.

Superintendent shall ensure that the District maintains a record log of all such expenditures for Board review.

12. **Cellular Phone Allowance.** During the term of this Agreement, Superintendent shall be entitled to a cellular phone allowance of \$100.00 per month to defray the costs of phone usage on behalf of the District on his personal cellular phone.
13. **General.** Superintendent shall be entitled to the same benefits applicable to other 12-month certificated administrators, unless this Agreement provides different or additional benefits.
14. **Incidental Food/Beverage.** As a de minimus fringe benefit and 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.
15. **Governing Board/Superintendent Relationships / Evaluation / Notices.** At Superintendent's or the Board's periodic request, the Board and Superintendent shall meet to discuss Board/Superintendent relationships and expectations. In addition, the Board shall conduct at least one formal evaluation of Superintendent each fiscal year, using the Board approved evaluation instrument. The Board may conduct additional formal or informal evaluations in its sole discretion. Superintendent shall be responsible for inclusion of any necessary Board agenda items related to the Board's evaluation of Superintendent.

Superintendent or his designee shall be responsible for notifying the Board of the need to convene a Board meeting to discuss and communicate with Superintendent the Board's intent to renew or non-renew Superintendent's employment at the expiration of this Agreement; said notice shall be provided to the Board in January of 2023.

16. **Termination of Agreement.**

16.1 Discharge for Cause. Throughout the term of this Agreement, Superintendent shall be subject to discharge for good and just cause, with notice of termination specifying such cause to be given to Superintendent in writing. In the event of a discharge for cause, Superintendent shall have the right to request a hearing by so advising the Board in accordance with the rights outlined in A.R.S. §15-341(A)(22) and the applicable District policies. Such hearing shall take place according to the procedures provided for under A.R.S. §15-541. The Board may, in its discretion, suspend Superintendent from his duties, with pay and all other employment benefits, upon serving Superintendent with notice of its intent to discharge him for cause.

For purposes of this Section, the term "good and just cause" includes, but is not limited to, (a) failure to perform in accordance with the terms and/or conditions of this Agreement; (b) incompetence, which shall include without limitation demonstrated and repeated deficiencies in Superintendent's administrative skills; (c) neglect of duty; (d) unprofessional conduct; (e) insubordination; (f) immoral or other conduct which tends to injure the credibility of the Board, the District, its schools, its employees and/or students;

(g) any conviction on felony charges, or on misdemeanor charges involving fraud, deceit or moral turpitude; (h) physical or mental incapacity, subject to the provisions of Section 17.2; (i) failure or inability to provide acceptable evidence of appropriate professional certification; (j) violation of Governing Board Policies or federal or state laws; (k) any misrepresentation of Superintendent's credentials; or (l) any other conduct which materially interferes with the continued or efficient performance of Superintendent's duties hereunder.

16.2 Incapacity of Superintendent. Should Superintendent be unable to perform any or all of his duties by reason of illness, accident or other causes beyond his control, and such disability exists for a cumulative period of more than 6 months during any 12 month period during the term of this Agreement, and if the Board determines at its sole discretion that such disability is of such a nature that it materially impairs Superintendent's ability to perform his duties hereunder, then the Board may, at its option, terminate this Agreement upon 60 days prior written notice to Superintendent. In no event shall such termination hinder or impair Superintendent's ability to collect any disability benefits to which he would otherwise be entitled for the disability in question.

16.3 Unilateral Termination by Governing Board. The Board may, at its option and upon a minimum of 90 days' prior written notice to Superintendent, unilaterally terminate this Agreement. Because Superintendent's damages for such a termination would be extremely difficult to calculate, Board and Superintendent hereby agree that upon any such termination, the District shall pay to Superintendent a sum equal to the present value of all accrued and unpaid annual base salary which Superintendent would have earned under this Agreement from the actual date of termination to the expiration date of this Agreement. Superintendent shall also be entitled to receive the present value of leave days, consistent with the provisions of Section 7 of this Agreement that have accrued up through the date of the termination. Superintendent shall further be entitled to payment of earned but unpaid performance pay, but only for the fiscal year in which he is terminated under this provision. Superintendent understands and agrees that his acceptance of monies paid pursuant to this paragraph shall constitute his sole legal remedy relative to all compensation and benefits to which he might otherwise have been entitled under this Agreement. Superintendent agrees that as 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 employment with District up to the date of the signing of the Severance Agreement. Upon signing the Severance Agreement the Board, the District, and its agents will release Superintendent from all claims arising out of Superintendent's employment with the District.

16.4 Mutual Agreement. This Agreement shall terminate upon written agreement between Superintendent and the Board.

16.5 Superintendent's Resignation. If Superintendent desires to terminate this Agreement, Superintendent shall provide the Board with written notice of the same at least 90 days prior to Superintendent's intended termination date. If Superintendent accepts employment for any other employer without obtaining the advanced written consent of the Board Superintendent will be deemed to have resigned from all District employment effective as of either the date the Superintendent accepted said employment or the date the Superintendent began said employment whichever is earlier. If the Agreement is terminated under this paragraph, Superintendent shall receive only [his/her] prorated annual base salary earned to the date of termination of employment and shall forfeit all rights to other compensation and benefits under this Agreement for the remainder of its term, including but not limited to payout of any accrued and unused leave, with the exception of eligibility for election of benefits available under COBRA.

16.6 Death of Superintendent. This Agreement shall automatically and without further action by the Board or Superintendent's estate terminate upon the death of the Superintendent.

16.7 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.


16.8 Long Term Superintendent. The Parties both recognize and agree that the Board shall be seeking a long term superintendent during the Term of this Agreement. The Parties further recognize and agree that should an offer of employment be offered and accepted by both the Board and a long term superintendent candidate that this Agreement shall terminate without further action or obligation for either Party of any kind upon the expiration of the next then current month of the Agreement's term or June 30, 2023, whichever is sooner. If termination pursuant to this section is effectuated the Superintendent shall be entitled to full pay and benefits as are applicable pursuant to the terms of this Agreement through the date of termination outlined in this section.

- 17. Governing 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.
- 18. Severability.** In the event any covenant, term, condition or provision of this Agreement shall be deemed by a court of competent jurisdiction to be illegal, void or against public policy, such provision shall be severed from this Agreement and the remaining terms, conditions and provisions hereof shall remain in full force and effect to the extent permitted by law.
- 19. Construction.** This Agreement has been negotiated by and between the Governing Board and Superintendent in arms-length negotiations and both parties are responsible for the drafting of this Agreement. Both parties have reviewed this Agreement with appropriate legal counsel, or have waived their right to do so, and the parties hereby mutually and irrevocably agree that this Agreement shall be construed neither for nor against either party, but in accordance with the plain language and intent hereof. Headings are used herein for convenience only, and shall play no part in the construction of any provision of this Agreement.

20. **Attorney's Fees.** Each party is responsible for its own attorneys' fees in the event of any dispute between the District and Superintendent arising under or in relation to this Agreement.
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 Governing Board.
22. **Notices.** 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 written request, to his home address as on file in the District office; and (b) in the case of the Governing Board, the individual Board Members' respective home addresses.
23. **Time.** Time is of the essence of this Agreement and every term and condition hereof.
24. **Non-Assignability.** This Agreement is an Agreement for services and may not be assigned by either party, nor shall the Superintendent's duties hereunder be performed by any other person without the prior written consent and proper approval of the Board, which consent and approval the Board may elect to grant or deny in its sole, absolute and unfettered discretion.
25. **Integration and Amendment.** This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, and supersedes any and all prior oral or written agreements between the parties with respect to the subject matter hereof. No modification or amendment hereto shall be valid or binding upon either party unless such amendment or modification is in writing, duly executed by the parties and properly approved by the Board.
26. **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.

The Governing Board approved this Agreement at a properly noticed public meeting of the Governing Board held on July 12, 2022. In witness thereof, the parties indicate their agreement to the above terms by affixing their signatures below.

SUPERINTENDENT:

By 
Superintendent

(MONTH) 6, 2022

VERNON ELEMENTARY SCHOOL DISTRICT NO. 9 GOVERNING BOARD:

By 
Governing Board President

EXHIBIT A

**GOVERNING BOARD RESOLUTION
SUPERINTENDENT'S EMPLOYMENT AGREEMENT
PERFORMANCE PAY PLAN**

WHEREAS, the Governing Board ("the Board) of the Vernon Elementary School District No. 9 ("the District") has determined that it is in the District's best interest to establish its own performance based pay plan for Superintendent (INSERT NAME) ("Superintendent") for the term of his Employment Agreement effective beginning on July 1, 2022;

NOW, THEREFORE be it resolved by the Governing Board that:

- I. Pursuant to A.R.S § 15-341 (39), the Governing Board hereby establishes its own performance based pay plan for the services of Superintendent.
- II. Superintendent and the Governing Board agree that during the term of Superintendent's Employment Agreement, 3% of Superintendent's annual base salary (as set forth in paragraph 3.2 of Superintendent's Employment Agreement) shall be designated as "performance based pay". The performance based pay shall be withheld from Superintendent's base salary. The performance based pay, if earned, shall not be added to Superintendent's annual base salary. The performance based pay amount shall be payable only if and to the extent that Superintendent satisfies the criteria for an award of performance pay.
- III. Superintendent and Board agree that the goals by which Superintendent's performance pay shall be measured shall be those goals which Superintendent and the Governing Board create and mutually agree to prior to June 30th of each fiscal year of this Agreement. Notwithstanding the foregoing, should Superintendent and Governing Board fail to come to agreement after good faith discussions, the Governing Board shall be entitled to make the final determination regarding Superintendent's performance pay goals. Should the Governing Board fail to determine the goals required by this paragraph by June 30th of the then current fiscal year then the goals shall be those found in District Policy CBI.

The Board shall determine, by a majority vote whether Superintendent has achieved each of the goals adopted by the Board.

For each goal that a majority of the Board determines Superintendent has met, Superintendent shall be awarded a percentage of the total possible award of performance pay. If the Board determines that Superintendent has partially achieved a particular goal, the Board may, by a majority vote, determine a percentage to reflect the partial achievement and commensurate earned performance pay. If the Superintendent fails to meet the goals by the Board, the Board reserves the right to award up to the full amount of performance pay based on a majority vote in favor of such an award.

The Board shall take action on Superintendent's performance pay in a properly noticed, open meeting of the Board.

- IV. The Governing Board shall by no later than the first regularly scheduled Governing Board Meeting in December of each year for which the Agreement is in effect review the performance of the Superintendent utilizing the standards as outlined in the Agreement and this Exhibit A. Upon a majority vote of the then present and voting Governing Board Members finding the Superintendent's performance to be adequate the Superintendent shall be awarded up to Fifty Percent (50%) of the performance pay withheld pursuant to Section 3.2 of the Agreement. Such awarded performance pay amounts shall be provided to the Superintendent within the next available regularly scheduled Superintendent pay period.
- V. The Governing Board shall by no later than the first regularly scheduled Governing Board Meeting in June of each year for which the Agreement is in effect review the performance of the Superintendent utilizing the standards as outlined in the Agreement and this Exhibit A. Upon a majority vote of the then present and voting Governing Board Members finding the Superintendent's performance to be adequate the Superintendent shall be awarded up to the remainder of the amount of the performance pay withheld pursuant to Section 3.2 of the Agreement not already provided to the Superintendent pursuant to Section IV of this Exhibit A. Such awarded performance pay amounts shall be provided to the Superintendent within the next available regularly scheduled Superintendent pay period.
- VI. The above method of performance assessment (as set forth in Section III above) shall be utilized during each fiscal year of this Agreement, unless Superintendent and the Governing Board mutually agree to modify the same. The Governing Board and Superintendent shall meet no later than June 15 annually to discuss what changes, if any, shall be made to the method of performance assessment for the following fiscal year.