

## ASBA Model Superintendent Agreement

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The Board of Directors of the \_\_\_\_\_ School District (hereinafter "Board") and \_\_\_\_\_ (hereinafter "Superintendent") agrees:

1. Employment: The Board agrees to employ the Superintendent of the \_\_\_\_\_ School District for the period of July 1, \_\_\_\_ through June 30, \_\_\_\_, <sup>1</sup> on a 240<sup>2</sup> day Agreement, who shall serve as the school district's chief administrative officer, and perform all duties and possess all powers granted by applicable Arkansas law, rules or regulations, and Board policy, until such time as this Agreement expires or is terminated, as provided in Paragraph \_\_\_\_ .The Superintendent agrees to accept the employment, and faithfully discharge the duties incident to it.

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<sup>1</sup> It is traditional for Superintendents to be offered an initial, three year contract or Agreement of employment, and early each calendar year, to be offered an additional year of future employment, to be added to the end of the Agreement. The maximum length of Agreement that may be entered into in Arkansas is three years. Some districts have a strong tradition or culture of only offering a one or two year Agreement; this is certainly legal, but it makes the employment opportunity less attractive to a candidate. For example, your best candidate may be currently employed on a multi-year contract with excellent job security. In addition, three years is considered the minimum amount of time for a superintendent to see changes and new ideas fully implemented.

<sup>2</sup> This assumes that a 240 day contract is typical for a 12 month employee in your district; this could and should be adjusted to match district practice for 12 month employees.

OPTIONAL ADDITIONAL LANGUAGE: During the term of this Agreement, the Superintendent agrees to devote his/her full attention to the performance of these duties, and will perform no other gainful employment or profession,[ except as herein noted or permitted.<sup>3]</sup>

2. Compensation: Pick one

OPTION 1: Compensation: The salary to be paid to the Superintendent, effective July 1, \_\_\_\_ shall be at an annual rate of \$ \_\_\_\_\_ payable in 26 (or 12) biweekly (or monthly) installments. <sup>4</sup>

OPTION 2: Compensation: The salary to be paid to the Superintendent, effective July 1, \_\_\_\_ shall be according to the most recently adopted salary schedule, currently at the annual rate of \$ \_\_\_\_\_ payable in 26 (or 12) biweekly (or monthly) installments.<sup>5</sup>

3. Duties: The Superintendent shall serve as the chief executive officer of the School District, and shall have the powers necessary to perform this duty. All district staff shall be subject to the direction of the Superintendent. The Superintendent shall tender an official transcript of all post-secondary course work, a copy of his or her teaching license, proof of age and any other documents necessary to comply with state or federal law. The Superintendent shall maintain his or her license in good standing. Any disciplinary suspension of the Superintendent's license by the Professional Licensing Standards Board shall constitute a material breach of this Agreement.

OPTIONAL: Modify the second sentence to read: All district staff are subject to the direction of the Superintendent and shall be recommended for hire, rehire, termination or nonrenewal by the Superintendent.<sup>6</sup>

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<sup>3</sup> For example, the Board may agree that the candidate may continue to teach a graduate level class, serve as a consultant, or provided compensated professional services for Scholastic Audit. Each permitted additional employment should be noted in the Agreement, and if the Superintendent wishes to accept an opportunity that is not specifically permitted by the Agreement, this should be negotiated with the Board, and the Agreement modified mid-term by mutual agreement. Do note that any work for pay should be done outside of the contracted days, or a personal or vacation day should be taken as required by A.C.A. 6-17-211.

<sup>4</sup> This would be a negotiated salary. The salary schedule must be changed to correspond to this dollar amount. The salary of the Superintendent can be changed by a Board vote, and does not require the usual PPC process in 6-17-204. You want to make sure that the salary that you offer is comparable to the salary offered by other, similar sized school districts. Comparative salary data can be obtained upon request from the Arkansas Association of Education Administrators, who make and publish an annual salary survey of their membership. The telephone number for the AAEA is (501) 372-1691.

<sup>5</sup> This would be an indexed salary, with the index or multiplier established on the salary schedule. The Superintendent would get an automatic raise if money were added to the base teacher's salary schedule.

<sup>6</sup> This underlined language, if included would mean that the Board could **only** hire on the recommendation of the Superintendent ; it is required by law that the Superintendent recommend in the event of a termination or

4. Fitness for Duty: The Superintendent represents that he or she is fully qualified to serve as Superintendent, and is fit and able to perform all physical and intellectual duties of the office.

OPTIONAL: The Superintendent will , prior to employment and annually thereafter, submit to a physical examination at district expense, and provide a doctor's statement that he or she is mentally and physically capable of performing the traditional and expected duties of Superintendent.<sup>7</sup>

5. Benefits: Vacation, Sick leave and Travel Expenses: The Superintendent shall have the same fringe benefits as other contracted full year employees, including vacation and personal days, and shall follow all personnel policies concerning these benefits.<sup>8</sup> The Superintendent may transfer in sick leave days from another Arkansas school district as provided by law.

OPTION 1: Unrestricted business and personal use of a vehicle: The Board shall provide a vehicle for the business and personal use of the Superintendent, and shall assume all expenses related to this use of this vehicle, including insurance, fuel, maintenance, etc. The Superintendent will provide and comply with all Internal Revenue Service reporting requirements to enable appropriate reporting of taxable income related to the personal use of the vehicle.<sup>9</sup>

OPTION 2: Unrestricted business and personal use of a vehicle, plus additional travel expenses: The Board shall provide a vehicle for the business and personal use of the Superintendent, and shall assume all expenses related to this use of this vehicle, including insurance, fuel, maintenance, etc. The Board will also permit the Superintendent to submit receipts for reimbursement for approved travel to conferences and meetings, in accordance with district policy. The Superintendent will provide and comply with all Internal Revenue Service reporting requirements to enable appropriate reporting of taxable income related to the personal use of the vehicle.<sup>10</sup>

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nonrenewal or teacher reassignment, but not required by law that the Superintendent make hiring recommendations that limit the Board's ability to "hire around" the Superintendent .

<sup>7</sup> Such an exam is likely to be very costly, and this should be considered and researched before adopting.

<sup>8</sup> By law, school districts may not contribute additional moneys toward the Superintendent's personal or family health insurance in excess of that which is contributed for all other district employees. However, the district may make contributions to an annuity, or purchase other forms of non-health insurance for the Superintendent as a negotiated fringe benefit.

<sup>9</sup> The district should annually issue an IRS form 1099 for the fair market value of the personal use of the vehicle, if this option is selected, and as such, this would constitute taxable income for the Superintendent.

<sup>10</sup> The district should annually issue an IRS form 1099 for the fair market value of the personal use of the vehicle, if this option is selected, and as such, this would constitute taxable income for the Superintendent.

OPTION 3: Travel Reimbursement: The Board shall provide a vehicle for the official and business related use of the Superintendent, and shall assume all expenses related to this use of this vehicle, including insurance, fuel, maintenance, etc. The Board will also permit the Superintendent to submit receipts for reimbursement for approved travel to conferences and meetings, in accordance with district policy.

OPTION 4: Travel Reimbursement: The Board shall reimburse the Superintendent for business related use of the Superintendent's own vehicle at the rate of \$\_\_\_\_ per mile. The Board will also permit the Superintendent to submit receipts for reimbursement for approved travel to conferences and meetings, in accordance with district policy.

OPTION 5: Lump sum in lieu of routine travel reimbursement: The Board shall pay to the Superintendent the sum of \_\_\_\_<sup>11</sup> a month, and the Superintendent will obtain a personal vehicle and pay for routine, travel incident to the performance of his or her duties from this, not to include approved out of district travel, which shall be compensated at the rate of \$\_\_\_\_ per mile from the district headquarters to the meeting site, and back.

6. Evaluation: The Board shall evaluate the Superintendent at least annually, using the last adopted evaluation instrument for the Superintendent, or the evaluation instrument required by law, if one exists. If individual evaluations are completed by board members, each individual evaluation as well as any composite evaluation will be shared with the Superintendent, and retained in the Superintendent's personnel file. If the Board does not use an evaluation instrument, but votes to extend the Agreement of the Superintendent, that vote shall constitute an evaluation of the Superintendent's job performance. The failure of the Board to evaluate the Superintendent or to extend the Agreement of the Superintendent into the future as an evaluation of the Superintendent shall not constitute a material breach of this Agreement.
7. Termination: While the parties to this Agreement agree that the Teacher Fair Dismissal Act is neither relevant nor controlling as it relates to the termination of a Superintendent, notice to the Superintendent shall be provided, and an opportunity to a hearing modeled after the hearing provisions in the Teacher Fair Dismissal Act shall be provided in the event that a majority of the Board vote to initiate termination proceedings for material breach of this

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<sup>11</sup> If selected, this should be a substantial sum of money, such as \$400 to \$800 a month or more to cover the cost of operating a vehicle including insurance, maintenance, wear and tear and fuel. It may be helpful to review documentation of the previous Superintendent's annual reimbursed mileage, or if not available, request that information from a similarly configured district to establish a fair number, taking into consideration the distance between and the number of campuses, and the board's expectations concerning travel incident to the superintendent's job performance.

Agreement, or other just cause. The decision of the Board shall be final.<sup>12</sup> In the event of termination, the salary and benefits of the Superintendent shall terminate immediately.

8. Waiver: The failure of either party to insist, in any one or more instances, upon performance of any of the terms or conditions of this Agreement shall not be construed as a waiver or relinquishment of any right granted hereunder or of the future performance of any such terms or conditions, but the obligations of either party shall continue in full force and effect.
9. Severability: In case any provision of the Agreement shall be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
10. Entire Agreement: This instrument contains the entire Agreement of the parties. It may not be changed orally, but only by an agreement in writing signed by all parties thereof.
11. Indemnification; Legal Representation. The District shall indemnify and hold the Superintendent harmless from any and all claims, actions, suits and proceedings at law or equity brought against the Superintendent in his capacity and arising out of his reasonable and lawful actions as Superintendent and employee of the Board; provided, however, that the District reserves the right to select such counsel to represent the Superintendent subject to the Superintendent's consent, such consent not to be unreasonably withheld.
12. Governing Law: This Agreement shall be governed by the laws of the State of Arkansas.

\_\_\_\_\_ School District

BY: \_\_\_\_\_

President of Board

\_\_\_\_\_

Superintendent

BY: \_\_\_\_\_

Secretary of Board (board member)

<sup>12</sup> In this sense, "final" means there is no right to request a rehearing from the school board. The superintendent could certainly pursue legal action against the board, however, following a termination for cause.

Or

BY: \_\_\_\_\_

Disbursing Officer or Vice President (board member)

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**The following are additional numbered paragraphs that the Board may wish to consider:**

OPTIONAL NUMBERED PARAGRAPH: Performance Based Bonus: Should the Superintendent [describe goal or desired outcome] by [date] as measured by [very specific language] the Superintendent shall be entitled to a one-time cash bonus in the amount of \$\_\_\_\_\_, which shall be approved for payment by the Board upon tender of proof of performance.<sup>13</sup>

OPTIONAL NUMBERED PARAGRAPH: Equipment: The Board will provide the Superintendent with all necessary technology to perform the functions of his or her job, which shall include a tablet computer,<sup>14</sup> \_\_\_\_\_, and a school owned cell phone,

Option 1. The Superintendent shall use school owned and provided technology only for school and business related purposes.

Option 2: The Superintendent may use school owned and provided technology for both school and business related purposes, as well as personal use; however, this use shall not conflict with any school district policy concerning technology or internet use.

Option 3: The Board will provide the Superintendent with a monthly equipment and technology allotment in the amount of \$\_\_\_\_\_ <sup>15</sup>, and from this, the Superintendent is intended to equip him or herself with appropriate portable technology to perform his or her duties.

OPTIONAL NUMBERED PARAGRAPH: Moving and Relocation Expenses: Pick one

- a. The Superintendent and Board agree that residence within the school district is not a term or condition of his/her employment with the district.

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<sup>13</sup> The board will want to think about this carefully, and consider what objectively measurable evidence of outcomes would be available.

<sup>14</sup> A tablet computer may or may not be necessary; this can be adjusted as desired.

<sup>15</sup> A reasonable amount of money could range from \$50 up to \$200 or more, depending on the district's needs and efficiencies, such as the Superintendent's phone providing an internet hot spot for other district employees at meetings and conferences.

- b. The Superintendent agrees to relocate and continuously reside within the school district prior to assuming his or her duties as Superintendent as a term and condition of his/her employment by the Board. The failure of the Superintendent to have relocated his or her primary residence to the school district on or before the first day of employment under this Agreement shall automatically void this Agreement and the Board shall have no duties or obligations for any payment or damages to the Superintendent. After establishing residency, if the Superintendent should fail to maintain residence in the school district for a period of time in excess of 90 days, this shall constitute material breach of this Agreement.
- c. The Superintendent agrees to relocate and continuously reside within the school district as a term and condition of his/her employment by the Board. The Superintendent may submit paid receipts for moving and relocation expenses, including expenses incurred while searching for an appropriate dwelling, expenses for packing materials, movers, rental of moving vans or equipment and up to \$500 in personal and family hotel and restaurant expenses, not to exceed \$\_\_\_\_.<sup>16</sup> In the event that the Superintendent does not relocate within the first \_\_\_\_ months of employment, and continuously reside within the school district, it shall constitute a material breach of this Agreement and grounds for termination of this Agreement.
- d. Upon commencement of his duties and tender of proof of relocation to the school district, the superintendent shall be given a lump sum of \$\_\_\_\_,<sup>17</sup> to compensate the superintendent for moving and relocation expenses. The superintendent shall not be required to submit proof of relocation expenses.

OPTIONAL NUMBERED PARAGRAPH: Disability: In the event that the Superintendent is unable to report to his job site and fulfill the duties of Superintendent for a period in excess of twelve work weeks due to personal illness, disability, incapacity or other cause of unfitness to perform job responsibilities, regardless of whether or not any available sick leave or other paid leave has been exhausted or not, the Board may, by majority vote, deem the inability of the Superintendent to satisfactorily return to his or her contracted duties to be a material breach of the Agreement, and to terminate the Agreement of employment upon tender of 90 days pay. The Board's decision and determination as to the disability of the Superintendent shall be final.

OPTIONAL NUMBERED PARAGRAPH:

- a. Suspension: If, by majority vote, the Board votes to suspend the Superintendent from the performance of his or her duties under this Agreement, the

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<sup>16</sup> \$5000 is probably a reasonable upper limit to place on in-state relocation; considerably more would be appropriate if a superintendent were moving to Arkansas from another state.

<sup>17</sup> \$5000 is probably a reasonable upper limit to place on in-state relocation; considerably more would be appropriate if a superintendent were moving to Arkansas from another state.

Superintendent will surrender all school district property with the exception of the school owed cell phone, and shall remain available to the school district for consultation, advice and return to duties. Every day that the Superintendent is not available to the school district shall be accounted for as a vacation day, or, if appropriate documentation from a physician is presented and subject to district policy, a sick day. If a suspended Superintendent wishes to accept other employment during a term of suspension, to resign from his or her Agreement, or to retire as the word is defined by the Arkansas Teacher Retirement System, the Board agrees to immediately release him or her from his or her contractual obligation to be available to the district. At the end of 24 consecutive months of suspension, if the Superintendent has not been recalled to duty and if the Agreement has not expired on its own terms, the Board may, by majority vote, terminate the remaining months of the Superintendent's Agreement upon payment of a lump sum of \$ \_\_\_\_\_<sup>18</sup>, which shall be tendered to the Superintendent upon a signed release of all claims and causes of action against the school district.

- b. Suspension: If, by majority vote, the Board votes to suspend the Superintendent from the performance of his or her duties under this Agreement, the Superintendent will surrender all school district property with the exception of \_\_\_\_\_<sup>19</sup>, and shall remain available to the school district for consultation, advice and return to duties. Every day that the Superintendent is not available to the school district shall be accounted for as a vacation day, or, if appropriate documentation from a physician is presented and subject to district policy, a sick day. If a suspended Superintendent wishes to accept other employment during a term of suspension, to resign from his or her Agreement, or to retire as the word is defined by the Arkansas Teacher Retirement System, the Board agrees to immediately release him or her from his or her contractual obligation to be available to the district. At the end of 60 consecutive days of paid suspension, unless the Agreement has expired on its own terms, the Superintendent will recalled to duty, if the board has not terminated him or her for cause as provided for in Paragraph \_\_\_\_\_<sup>20</sup>.

OPTIONAL NUMBERED PARAGRAPH: Professional Development: The district will pay the dues for the Superintendent to be a member of the following state and national organizations and related organizations to enable the Superintendent to obtain high quality professional development and to further the interest of the school district: American Association of School Administrators, National Association of School Superintendents, Arkansas Association of

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<sup>18</sup> A suggestion for this sum of money would be \$25,000 for Agreements under \$100,000, and \$50,000 for Agreements in excess of \$100,000.

<sup>19</sup> An example of property that the superintendent might retain while suspended might be a school owed cell phone or other technology that would facilitate school district contact with him or her during suspension.

<sup>20</sup> This would be a numerical reference to the numbered paragraph referring to termination.



Educational Administrators, Arkansas Rural Education Association, \_\_\_\_\_.<sup>21</sup> (optional language: The Superintendent is required, when it does not conflict with important district duties, to attend the weekly legislative meetings of the Arkansas Association of Education Administrators either in person or by means of electronic participation, as well as to be present, as deemed necessary and desirable at the Capitol during a legislative session, and these meetings shall be deemed to be a meeting related to education as defined by A.C.A. 6-17-211.<sup>22</sup>) The district will assume the reasonable and customary expenses for registration for the annual meetings and conferences of these groups, and to attend the Legislature, including any out of district or overnight travel and related necessary expenses for the Superintendent.

Option 1: The Board may approve out of state travel for the Superintendent on a case-by-case basis.

Option 2: The Board agrees that the Superintendent shall attend the annual national meeting of \_\_\_\_\_, and agrees to assume all necessary travel expenses for this meeting for the superintendent.

OPTIONAL NUMBERED PARAGRAPH<sup>23</sup>: Material Breaches: In addition to other designated material breaches of this Agreement contained therein, the following shall also be considered material breaches of the Agreement, and a basis for termination of the Agreement of employment:

- a. After twenty-four consecutive months of employment<sup>24</sup>, the school district being designated as being in Fiscal Distress as defined by A.C.A. 6-20-1901 et. seq., shall be considered a material breach of the Agreement of employment, provided that the school Board has voted to uphold the Superintendent's recommendations to non-renew employment Agreements of district employees pursuant to a Reduction In Force or RIF and has not acted against the Superintendent's recommendations concerning entering into contracts, hiring personnel or making expenditures that, if

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<sup>21</sup> This list is suggestive, not exhaustive, and should be developed based on the candidates own professional interests and previous memberships. Budget is also a consideration, as the expense related to attendance at a National Conference could easily be several thousand dollars per year. It may be more appropriate to limit attendance to one national conference every other year, or every third year or to eliminate this particular provision entirely.

<sup>22</sup> The underlined sentence is entirely optional, but would serve to protect the school district if Legislative Joint Audit wished to challenge school district reimbursement of expenses related to advocacy by the Superintendent, and for this reason, we recommend it.

<sup>23</sup> The Board may wish to consider including one or all of these provisions. All of these situations, while rare and unlikely to occur, if present, tend to be very disruptive to both the community and the school community.

<sup>24</sup> A Superintendent has little ability to respond to a dire financial situation that was largely created before his or her assumption of the job, and must wait until spring to implement a RIF or make major changes to policy or salary schedules for the upcoming year. It is, however, fair to hold a Superintendent accountable for a financial situation that developed during his own tenure.

followed, would have resulted in the district avoiding being placed in fiscal distress status.

- b. The arrest of the Superintendent or the filing of criminal charges against the Superintendent during his or her tenure of office shall constitute a material breach of the Agreement of employment.
- c. Adverse findings by the Professional License Standards Board, or true findings of child abuse or maltreatment;
- d. Entering into what appears to be a dating or romantic relationship, with a current school district employee during the Superintendent's tenure of office, shall constitute a material breach of the Agreement of employment.
- e. Exhibiting favoritism or preference based on a personal, family or marital relationship with a district employee or potential district employee shall constitute a material breach of the Agreement of employment.

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