

Superintendent Term Contract

This Contract is entered into between the Board of Trustees (the “Board”) of the LAKE WORTH INDEPENDENT SCHOOL DISTRICT (the “District”) and John Hebert (the “Superintendent”).

The Board and the Superintendent, for and in consideration for the terms stated in this Contract, hereby agree as follows:

1. **Term.** The Board agrees to employ the Superintendent on a twelve month basis per school year, beginning September 1, 2016 and ending August 31, 2018. The Board and the Superintendent (the “Parties”) may extend the term of this Contract by agreement.
2. **Extension.** At any time during the contract term, but not until the Superintendent’s first formal appraisal, the Board in its discretion may reissue the contract for an extended term. Failure to extend a contract shall not constitute contract nonrenewal.
3. **Certification and Records.** The Superintendent agrees to maintain the required certification and experience records throughout the term of employment with the District, and all other records required for personnel or payroll purposes. If the Superintendent’s certification expires, is canceled, or is revoked, then this Contract is void.
4. **Reassignment.** The parties agree that the Superintendent cannot be reassigned from the position of Superintendent to another position without the Superintendent’s consent.
5. **Representations.** The Superintendent makes the following representations:
 - 5.1 **Beginning of Contract:** At the beginning of this Contract, and at any time during this Contract, the Superintendent specifically agrees to submit to preliminary and periodic reviews of his national criminal history record information (NCHRI), in accordance with law and Board policy, or if required by the Board, law, the Texas Education Agency or the State Board for Educator Certification. The Superintendent understands that a criminal history record acceptable to the Board, at its sole discretion, is a condition precedent to this Contract.
 - 5.2 **During Contract:** The Superintendent also agrees that, during the term of this Contract, with the exception of routine traffic citations, the Superintendent will notify the Board in writing of any arrest or of any indictment, conviction, no contest or guilty plea, or other adjudication of the

Superintendent. The Superintendent agrees to provide such notification in writing within seven calendar days of the event or any shorter period specified in Board policy.

- 5.3 **False Statements and Misrepresentations:** The Superintendent represents that any records or information provided in connection with his employment application, certification, employment history, criminal history, and payroll and personnel records are true and correct. Any false statements, misrepresentations, omissions of requested information, or fraud by the Superintendent in or concerning any required records or in the employment application may be grounds for termination or nonrenewal, as applicable.
 - 5.4 **Waiver, Indemnification:** The Superintendent, as a retire-rehire employee under the Texas Teacher Retirement System (TRS), hereby WAIVES, RELEASES, and AGREES TO INDEMNIFY AND HOLD HARMLESS the District, its officers, agents, and employees for any consequences to the Superintendent's TRS income or benefits resulting from the terms of this Contract.
6. **Duties.** The Superintendent shall be the educational leader and chief executive officer of the District. The Superintendent agrees to perform his duties as follows:
- 6.1 **Authority:** The Superintendent shall perform such duties and have such powers as may be prescribed by the law, the job description, and the Board. The Board shall have the right to assign additional lawful duties to the Superintendent and to make changes in responsibilities or work at any time during the contract term. All duties assigned by the Board shall be appropriate to and consistent with the professional role and responsibility of the Superintendent and/or with the Superintendent's job description as outlined in Board policy.
 - 6.2 **Standard of Performance:** Except as otherwise permitted by this Contract, the Superintendent agrees to devote his full time and energy to the performance of his duties. The Superintendent shall perform his duties with reasonable care, skill, and diligence. The Superintendent shall comply with all lawful Board directives, state and federal laws and rules, Board policy, and regulations as they exist or may hereafter be amended.
 - 6.3 **Evaluation:**
 - (a) **Time and Basis of Evaluation.** The Board shall evaluate and assess in writing the performance of the Superintendent at least once each year during the term of this Contract provided, however, the Board may conduct an evaluation of the Superintendent at any time, in its

discretion. The Board's evaluation and assessment instrument for the Superintendent may contain criteria related to the Superintendent's statutory duties, regulatory duties, Board policy duties, the Superintendent's goals, and the duties of the Superintendent as outlined in the Superintendent's job description, and shall be based at least in part on the District's progress towards accomplishing the District Goals (defined below).

- (b) **Confidentiality.** Unless the Superintendent expressly requests otherwise in writing, the evaluation of the Superintendent shall at all times be conducted in executive session and shall be considered confidential to the extent permitted by law. Nothing herein shall prohibit the Board or the Superintendent from sharing the content of the Superintendent's evaluation with their respective legal counsel.
- (c) **Evaluation Format and Procedure.** The evaluation format and procedure shall be developed by the Board, and shall be in accordance with the Board's policies and mandatory state and federal law, to the extent such exist. In the event that Board members, collectively or individually, as a part of the evaluation process, determine that the performance of the Superintendent is unsatisfactory in any respect, it shall describe in writing, in reasonable detail, the criteria deemed to contain deficiencies, and shall, to the extent possible, identify specific instances of unsatisfactory performance provided by any Board member. The evaluation may include recommendations as to areas of improvement in instances where the Board or individual Board members deem performance to be unsatisfactory, but the Superintendent shall be expected to know how to improve his job performance once deficiencies are pointed out to him. A copy of the written evaluation shall be delivered to the Superintendent. The Superintendent shall have the right to make a written response to the evaluation. That response shall become a permanent attachment to the evaluation in the Superintendent's personnel file. Within thirty (30) days of the delivery of the written evaluation to the Superintendent, the Board shall meet in executive session with the Superintendent to discuss the evaluation and the Superintendent's working relationship with all Board members. The Board may adopt the completed evaluation in an open meeting, provided however, that such adoption shall not make the evaluation a public document. In the event the Board deems that the evaluation instrument, format, and/or procedure is to be modified by the Board and such modifications would require new or different performance expectations, the Superintendent shall be provided a reasonable period of time, in the discretion of the Board, to demonstrate such expected performance before being evaluated.

- 6.4 **Outside Employment:** The Superintendent may, with prior written consent of the Board, undertake consulting work, speaking engagements, writing, lecturing, and other professional duties and obligations that do not conflict or interfere with the Superintendent's professional responsibilities to the District. For any such outside employment, the Superintendent agrees to comply with applicable ethics rules, laws, and Board policies regarding reporting potential and actual conflicts of interest and providing personal services to outside entities. In addition, the Superintendent agrees to provide information regarding income from such activities to the District as necessary for financial reporting requirements.
- 6.5 **Professional and Civic Activities.** The Superintendent is encouraged to participate in professional growth activities and civic activities.
- 6.6 **Development of Annual Performance Goals.** The Superintendent shall submit to the Board a preliminary list of goals for the District each year for the Board's consideration and adoption. The Superintendent and the Board shall then meet, and the Board shall approve or revise the list of goals. The Superintendent shall submit to the Board for its approval a plan to implement the goals. The Superintendent shall be responsible for placing on the agenda an opportunity for the Superintendent and the Board to meet biannually to assess the goals and may adjust or revise the goals either by action of the Board or upon recommendation of the Superintendent and approval of the Board. The goals approved by the Board shall at all times be reduced to writing ("District Goals") and shall be among the criteria on which the Superintendent's performance is reviewed and evaluated.
- 6.7 **Board Meetings.** The Superintendent shall attend, and shall be permitted to attend, all meetings of the Board, both public and closed, with the exception of those closed meetings devoted to the consideration of any action or lack of action on the Superintendent's Contract, or the Superintendent's evaluation, or for purposes of resolving conflicts between individual Board members, or when the Board is acting in its capacity as a tribunal, or at other times when it is appropriate to exclude the Superintendent. In the event of illness or Board-approved absence, the Superintendent's designee, limited to one or more of the Superintendent's Executive Directors, may attend such meetings.
- 6.8 **Criticisms, Complaints, and Suggestions.** The Board, individually and collectively, shall refer in a timely manner all substantive criticisms, complaints, and suggestions called to the Board's attention either: (a) to the Superintendent for study and/or appropriate action, and the Superintendent shall refer such matter(s) to the appropriate District employee or shall investigate such matter(s) and shall within a reasonable time inform the entire

Board, in writing, of the results of such efforts; or, (b) to the appropriate complaint resolution procedure as established by District Board policies. Provided, however, nothing in this section shall be construed to limit or inhibit in any manner an employee's statutory right to talk to any Board member, and the Superintendent shall not retaliate in any manner against any employee who speaks directly with any Board member.

7. **Annual Compensation.** The District shall pay the Superintendent an annual salary as follows:

7.1 **Salary:** Effective November 1, 2016, to correct an oversight when annual salary increases were awarded, an annual salary of ONE HUNDRED FIFTY THOUSAND FOUR HUNDRED FIFTY DOLLARS AND NO/100 (\$150,450.00) shall be payable in twelve (12) monthly installments in accordance with the District's standard payroll practices, and shall be subject to all appropriate withholding.

- (a) **Financial Exigency.** If the Board declares a financial exigency under Texas Education Code Section 44.011, the statute allows the Board to choose to amend this Superintendent's Contract. If this Contract is amended, then the Superintendent may choose to accept the amended Contract or resign without penalty upon the provision of reasonable notice.
- (b) **Widespread Salary Reduction.** If the Board implements a widespread salary reduction under Texas Education Code Section 21.4022, then the Superintendent's annual salary shall be reduced by the percent or fraction of a percent that is equal to the average percent or fraction of a percent by which teacher salaries have been reduced.
- (c) **Furlough.** If the Board implements a furlough under Texas Education Code Section 21.4021, then the Superintendent shall be furloughed for the same number of days as other contract personnel and the Superintendent's salary shall be reduced in proportion to the number of furlough days.
- (d) **Work Period.** The Superintendent shall work and be paid for 212 days each year of the contract, inclusive of any earned and used paid vacation and sick/personal leave days, paid holidays or any other paid time off. The Superintendent shall not work any days or partial days during the school year for which he is not paid. The Superintendent and the Board shall mutually agree on when the Superintendent shall be absent from the District on those days or partial days for which he is not paid.

- 7.2 **Salary Increases:** The Board, in its sole discretion, may award salary increases on an annual basis through an amendment to this Contract.
- 7.3 **Benefits:** The District shall provide benefits to the Superintendent as provided by state law and Board policies. The Board reserves the right to amend its policies at any time during the term of this Contract to reduce or increase these benefits, at the Board's sole discretion.
- 7.3.1 **Car Allowance:** The District shall provide the Superintendent with an automobile allowance for travel within the Dallas - Fort Worth Metroplex (within a radius of forty (40) miles from the District Administrative offices) in the sum of FIVE HUNDRED DOLLARS AND NO/100 per month (\$500.00/month).
- 7.3.2 **Vacations, Sick Leave, Holidays:** The Superintendent shall receive the same number of vacation days as authorized by board policy for administrative employees on 12-month contracts, based on time served in the District. The Superintendent shall observe the same holidays and breaks as provided for other 12-month administrators in the Board's adopted annual calendar and shall be eligible for any leave available to other employees under Board policy. The Superintendent shall schedule vacation and leave days with prior written approval of the Board President and at times that will least interfere with the performance of the Superintendent's duties.
- 7.3.3 **Life Insurance:** The District shall provide the Superintendent with a term life insurance policy in the amount that is the same as all other District employees. The District shall pay the premiums for the life insurance policy for the duration of this Agreement. The life insurance policy shall be owned by the District on the life of the Superintendent, but the Superintendent shall have the sole right to determine the beneficiary under the policy.
- 7.3.4 **Retire/Rehire Program:** The District assumes the full cost associated within the retire/rehire guidelines.
- 7.3.5 **Business Expense Reimbursements:** The District shall reimburse the Superintendent, according to Board policy, for expenses incurred by the Superintendent in the performance of the Superintendent's duties.
- 7.3.6 **Membership Dues:** The Board encourages the Superintendent to become a member of and participate in local and state civic and professional activities, to be chosen in the Superintendent's discretion.

The Board concludes that such membership will serve a legitimate purpose related to the educational mission of the District. The District will reimburse the Superintendent for the reasonable expenses of membership in said organizations, subject to Board approval.

7.3.7 Professional Growth Activities: The Superintendent shall attend appropriate professional meetings at the local, state, and national levels, with advance approval of the Board. The District shall reimburse the Superintendent for actual expenses incurred in attending such activities in accordance with the adopted budget and the Board's policies regarding expense reimbursements.

7.3.8 Payment for Accrued Vacation Leave: Unused vacation days as of December 31 each year are lost, do not accumulate from year to year, and may not be converted into compensation, in accordance with Board Policy DED (Local). Unused vacation days for the then-current year may only be converted into compensation at the termination of the employment relationship, in accordance with and subject to the limits of Board Policy DED (Local).

8. **Physical Examination.** The Superintendent agrees to have a comprehensive physical exam at District expense on an annual basis, and to obtain a physician's statement certifying that he is physically able to perform his duties with or without reasonable accommodation. This statement shall be presented to the Board President. Nothing herein entitles the Board to access the Superintendent's medical records except the physician's statement identified herein.

9. **Suspension.** In accordance with Texas Education Code Chapter 21, the Board may suspend the Superintendent with pay at any time during the term of this Contract, and may suspend the Superintendent without pay for good cause as determined by the Board.

10. **Termination, Nonrenewal, or Resignation of Employment Contract.**

10.1 **Mutual Agreement.** This Contract may be terminated by the mutual agreement of the Superintendent and the Board in writing upon such terms and conditions as may be mutually agreed upon.

10.2 **Retirement or Death.** This Contract shall be terminated upon the retirement or death of the Superintendent.

10.3 **Resignation, Nonrenewal.** The Superintendent may unilaterally resign this Contract at the end of the Contract period. This Contract may be nonrenewed by the Board, at the end of the Contract period, pursuant to Texas Education

Code Chapter 21, for any Board policy reason for nonrenewal.

10.4 **Dismissal for Good Cause.** The Board may dismiss the Superintendent during the term of the Contract for good cause, pursuant to Texas Education Code Chapter 21. The term "good cause" is defined to include, but is not limited to, the following:

- (a) Failure to perform the Superintendent's duties in the scope of employment that a person of ordinary prudence would have done under same or similar circumstances, and which is inconsistent with the continued existence of the employer-employee relationship.
- (b) Failure to fulfill duties or responsibilities as set forth in state or federal statute or regulation, Board policy, Board or District goals, Board directives, or under the terms and conditions of this Contract;
- (c) Repeated documented deficiencies, or incompetence or inefficiency in the performance of required or assigned duties as documented by evaluations, supplemental memoranda, or other written or oral communication from the Board; provided, however, the terms and conditions of this paragraph shall not justify good cause unless the Board has provided the Superintendent a reasonable, in the Board's discretion, opportunity to remediate any incompetency or inefficiency, unless such incompetence or inefficiency constitutes "good cause" for immediate employment termination under Texas law;
- (d) Insubordination or failure to comply with lawful written Board directives, or oral directives of the Board given at a lawfully-called meeting of the Board, and including, but not limited to, a failure to fulfill the Board's goals for the Superintendent;
- (e) Failure to comply with applicable state or federal laws, regulations, the Board's policies or the District's administrative regulations;
- (f) Neglect of duties, whether resulting from action or inaction on the part of the Superintendent, or whether resulting from excessive absences in excess of available leave;
- (g) Drunkenness or excessive use of alcoholic beverages;
- (h) Illegal possession, use, manufacture, or distribution of controlled substances, dangerous drugs, drugs, hallucinogens, or other substances regulated by the Texas Controlled Substances Act or other criminal laws;

- (i) Conviction of or deferred adjudication for a felony, a crime under Texas Education Code Section 22.085, a crime listed as an excludable offense under Board policy, or a crime involving moral turpitude, or conduct constituting one of the above offenses, or conviction of a lesser-included offense pursuant to a plea deal when the original charged offense is a felony;
- (j) Failure to meet the District's, federal, State or common law standards of professional conduct;
- (k) Failure to comply with reasonable District professional development requirements regarding advanced course work or professional development;
- (l) Disability, not otherwise protected by law, that impairs performance of the required duties of the Superintendent;
- (m) Immorality, which is conduct the Board determines is not in conformity with the accepted moral standards of the community encompassed by the District. Immorality is not confined to sexual matters, but includes conduct inconsistent with rectitude or indicative of criminal acts, fraud, theft, dishonesty, deceit, corruption, indecency, or depravity;
- (n) Physical threats, explosive temper, or assault on a community member, parent, Board member, District contractor, employee or student, or other behavior that presents a danger of physical harm to himself or others;
- (o) Falsifying records or documents related to the District's activities or communications with the Board;
- (p) Conscious misrepresentation of facts or intentional withholding of pertinent information to the Board or other District, federal, state or local officials in the conduct of the District's business;
- (q) Failure to fulfill or maintain requirements for superintendent certification;
- (r) A breach of the duty of trust or confidentiality, or a failure to maintain an effective, close, positive, and professional working relationship with the Board; or,

- (s) Any other reason constituting "good cause" under Texas law for terminating the contract during the term of the Contract.

- 10. **Indemnification:** To the extent consistent with law, including Texas Civil Practice & Remedies Code Chapter 101, the **District agrees to defend, hold harmless, and indemnify the Superintendent** from any and all demands, claims, suits, actions, judgments, expenses, and attorneys' fees incurred in any legal proceedings brought against the Superintendent in the Superintendent's individual or official capacity as Superintendent of the District, acting within the course and scope of the Superintendent's employment (Covered Claim).

The term "Covered Claim" excludes any demands, claims, suits, actions, judgments, expenses, and attorneys' fees where it is determined that the Superintendent committed official misconduct, or committed a willful or wrongful act or omission, or an act or omission constituting gross negligence, or acted in bad faith. This indemnity also excludes any costs, fees, expenses, or damages that would be recoverable or payable under an insurance contract, held either by the District or by the Superintendent. The District's obligation to indemnify does not apply to criminal investigations or criminal proceedings.

The District and the Superintendent shall select the Superintendent's legal counsel for any Covered Claim by agreement if such legal counsel is not also the District's legal counsel. If a legal defense is provided through insurance coverage, then the Superintendent's right to agree to legal counsel provided for the Superintendent will depend on the terms of the applicable insurance contract. This indemnity provision shall survive the termination of this Contract.

The Superintendent agrees to fully cooperate with the District in the defense of any and all demands, claims, suits, actions, and legal proceedings brought against the District, regardless of whether or not the Superintendent is named as a party. Contingent on the Superintendent's providing such full cooperation, the District shall reimburse the Superintendent for his reasonable, related expenses, including travel and lodging expenses. The Parties' obligations under this paragraph shall continue after the termination of this Contract.

11. **General Provisions.**

- 11.1 **Amendment:** This Contract may not be amended except by written agreement of the Parties.

- 11.2 **Severability:** If any provision in this Contract is, for any reason, held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provision of the Contract. This Contract shall be construed as if such invalid, illegal, or unenforceable

provision had never been a part of the Contract.

- 11.3 **Entire Agreement:** All existing agreements and contracts, both verbal and written, between the Parties regarding the employment of the Superintendent are superseded by this Contract. This Contract constitutes the entire agreement between the Parties.
- 11.4 **Controlling Law and Venue:** Texas law shall govern construction of this Contract. The Parties agree that mandatory and exclusive venue for any litigation relating to the Superintendent's employment with the District, including this Contract, shall be in state district court in Tarrant County.
- 11.5 **Paragraph Headings:** The headings used at the beginning of each numbered paragraph in this Contract are not intended to have any legal effect; the headings do not limit or expand the meaning of the paragraphs that follow them.
- 11.6 **Legal Representation:** Both Parties have been represented by legal counsel of their choice, or have had the opportunity to consult with legal counsel, in the negotiation and execution of this Contract.

12. Notices.

- 12.1 **To Superintendent:** The Superintendent agrees to keep a current address on file with the District's Human Resources Office and the Board President. The Superintendent agrees that the Board may meet any legal obligation it has to give the Superintendent written notice regarding this Contract or the Superintendent's employment by hand-delivery, or by certified mail, regular mail, and/or express delivery service to the Superintendent's address of record.
- 12.2 **To Board:** The Board agrees that the Superintendent may meet any legal obligation to give the Board written notice regarding this Contract or the Superintendent's employment by providing one copy of the notice to the President of the Board and one copy to the Vice President of the Board. The Superintendent may provide such notices by hand delivery, or by certified mail, regular mail, and/or express delivery service, to the Board President and Vice President's addresses of record, as provided to the District.

I have read this Contract and agree to abide by its terms and conditions:

SUPERINTENDENT

John Hebert

Address: 10501 White Settlement Road
Fort Worth, Texas 76108

Date signed: _____

LAKE WORTH INDEPENDENT SCHOOL DISTRICT

By: Donna Hutson
President, Board of Trustees

Date signed: _____

Attest:

Steve Atchison
Secretary, Board of Trustees
Date signed: _____

The following is a scanned image of this signature page showing the signature of John Hebert with an address of 10501 White Settlement Road, Fort Worth, Texas 76108, dated 4/7/17, the signature of Donna Hutson, President of the Board of Trustees, dated 4/7/17, and the signature of Steve Atchison, Secretary of the Board of Trustees, dated 4/17/17.

I have read this Contract and agree to abide by its terms and conditions:

SUPERINTENDENT




John Hebert

Address: 10501 White Settlement Road
Fort Worth, Texas 76108

Date signed: 9/7/17

LAKE WORTH INDEPENDENT SCHOOL DISTRICT



By: Donna Hutson

President, Board of Trustees

Date signed: 4/7/17

Attest:



Steve Atchison

Secretary, Board of Trustees

Date signed: 4/17/17