

## CONTRACT OF EMPLOYMENT AS SUPERINTENDENT

By mutual consent of the parties in the manner permitted by Indiana Code 20-28-8-6, this contract ("Contract") supplements the basic teacher contract for the employment of **Dr. Jeffrey K. Butts** as Superintendent by the **Board of Education of the Metropolitan School District of Wayne Township**.

### 1. Parties to the Contract and Definition of Terms.

The parties to the Contract are the:

"**Superintendent**" meaning **Dr. Jeffrey K. Butts** who has been represented and advised in the negotiation of the Contract by attorney **Tara Schulstad Sciscoe** from the law firm of **Ice Miller LLP**; and the

"**Board**" meaning the governing body of the **Metropolitan School District of Wayne Township** which has been represented and advised in the negotiation of the Contract by attorney **Jon M. Bailey** from the law firm of **Bose, McKinney & Evans LLP**.

"**School year**" as used in this Contract means a twelve (12) month period beginning on July 1 of one calendar year and concluding on June 30 of the following calendar year.

"**Employment year**" as used in this Contract means the initial short year of January 1, 2011 to June 30, 2011, and then the school year thereafter.

"**School District**" as used in this Contract means the **Metropolitan School District of Wayne Township**.

### 2. Employment of the Superintendent and Terms of Employment.

The Board employs the Superintendent and the Superintendent agrees to be employed by the Board as the Chief Executive Officer of the School District for an initial three and one-half (3 1/2) year term beginning on **January 1, 2011**, and concluding on **June 30, 2014**, subject to the terms of this Contract.

The parties agree that the Superintendent shall provide services on two hundred and twenty seven (227) days during each school year (pro rated for the initial short employment

year). These working days shall be scheduled and worked in accordance with a schedule of working days established by the Superintendent so as to insure the full and competent performance of the duties established in Paragraph 3 of this Contract. These two hundred and twenty seven (227) days shall also include paid leave pursuant to Sub-Paragraph 4(b) of this Contract.

If the Superintendent provides services to the Board pursuant to this Contract on more than two hundred and twenty seven (227) days in a school year, he shall be paid at his per diem rate for each day beyond two hundred and twenty seven (227). The Superintendent's per diem rate for purposes of this Paragraph shall be computed by dividing the annual salary payable pursuant to Sub-Paragraph 4(a) of this Contract at the time the additional services are provided by two hundred and twenty seven (227).

### **3. Duties of Superintendent.**

The parties agree that the duties of the position of Superintendent to be performed pursuant to this Contract are set forth in a job description previously established by the Board which is incorporated into the Contract by reference.

The Board agrees to review the Superintendent's performance at least once each year and to present the results of this review to the Superintendent in writing at a conference with the Board. The review of the Superintendent's performance shall be based upon the duties described in the job description incorporated herein. The Superintendent's evaluation shall be in writing and completed by the Board not later than sixty (60) days following the end of the employment year for which his performance is being evaluated.

The Superintendent agrees that his duties as Superintendent represent full time employment and he will not accept outside employment, perform work as an independent contractor, or engage in any other business pursuit involving his personal services, if any of these activities interfere with his performance of his duties as Superintendent.

The parties agree that the position of Superintendent is a unique position in the School District and the Superintendent shall not be required to perform duties under the supervision of another School District employee or perform duties other than those described in the job description incorporated into this Contract as mitigation of the Board's damages or for any other reason, and the Superintendent shall not be transferred, reassigned, or assigned additional duties by the Board without his written agreement.

The Superintendent agrees that at all times while he is employed pursuant to this Contract he will fully meet the minimum qualifications for the position of Superintendent which include maintaining the license from the Office of Educator Licensing and Development in the Indiana Department of Education required for the position of Superintendent. A failure to maintain such a license shall result in the cancellation of this Contract pursuant to Sub-Paragraph 6(a) of this Contract.

#### **4. Compensation and Benefits.**

In exchange for meeting the qualifications established for the position of Superintendent and his performance of the duties of the position of Superintendent, the Board agrees that the Superintendent shall receive the following as compensation and benefits:

##### **a. Annual Salary.**

The Superintendent shall be paid an annual salary of One Hundred Eighty Five Thousand Dollars (\$185,000) each employment year (pro rated for the initial short employment year). Effective each July 1, the Superintendent's annual salary paid pursuant to this Sub-Paragraph shall be increased by the same percentage increase applied to the salary schedule for the School District's teachers, if any, as the result of collective bargaining for the school year.

**b. Other Paid and Unpaid Leaves.**

The Superintendent shall be entitled the same paid leave and unpaid leave, including sick leave, provided pursuant to Board established policy to management employees of the School District and/or which are required by state or federal law; provided, however, that the Superintendent shall not be entitled to any paid vacation.

**c. Insurance Benefits.**

The Superintendent shall be entitled to the same group health and dental coverage, group term life insurance, and long-term disability insurance, at the same premium cost, that is provided to management employees of the School District pursuant to Board established policy. The Board agrees that it shall not decrease the amount or scope of coverage provided to the Superintendent pursuant to this Sub-Paragraph without the written approval of the Superintendent.

**d. ISTRF Contributions.**

The Superintendent shall be entitled to the same contribution to the Indiana State Teachers' Retirement Fund on the same terms as the Board makes on behalf of certificated employees.

All payments to the Superintendent coming within the definition of "annual compensation" as defined in Ind. Code 5-10.2-4-3(d) shall be included in the Superintendent's compensation reported to the Indiana State Teachers' Retirement Fund, including the amounts paid under Sub-Paragraphs 4(e)(1) and (3).

**e. Deferred Compensation.**

In addition to the other compensation and benefits provided to the Superintendent pursuant to this Contract, the Board shall provide the following deferred compensation benefits:

(1) The Board shall provide additional dollars for tax-deferred contributions for the Superintendent to retirement plan arrangements described in Sections 403(b)

and 457(b) of the Internal Revenue Code (the "Code") for each employment year. These payments shall be an annual amount equal to the sum of the maximum salary reduction contributions that the Superintendent could elect to contribute to a Code Section 403(b) and Code Section 457(b) plan for that employment year. The Superintendent shall complete the necessary forms to make these salary reduction contributions to the Code Section 403(b) plan and the Code Section 457(b) plan sponsored by the School District. The Board shall take necessary actions to implement those forms and shall remit such salary reduction contributions to these plans during the month of January each employment year. The Superintendent acknowledges that the salary reduction contributions will be characterized as wages for Social Security, FICA, and as compensation for purposes of contributions to the Indiana State Teachers' Retirement Fund.

(2) Each employment year, the Board shall make the same contributions on behalf of the Superintendent to the Code Section 401(a) plan sponsored by the School District that the Board makes on behalf of management employees of the School District pursuant to Board established policy, as may be increased (but not decreased) from time to time. The Superintendent shall be One Hundred Percent (100%) vested in such contributions.

(3) The Board shall provide additional dollars for the Superintendent to make the maximum additional contributions to the Indiana Teachers' Retirement Fund pursuant to Indiana Code 5-10.2-3-2(c), for each year of employment under the Contract. The Superintendent shall complete the necessary forms to make the maximum additional contributions to the Indiana State Teachers' Retirement Fund.

**f. Automobile Allowance.**

The Board shall provide the Superintendent with an automobile allowance each employment year in the amount of Ten Thousand Eight Hundred Dollars (\$10,800), which shall be paid over the employment year pro rata with regular payroll.

**g. Technology Allowance.**

The Board shall provide the Superintendent with the same technology allowance each employment year that the Board provides management employees of the School District pursuant to Board established policy.

**h. Benefits Provided to All Management Employees.**

The Superintendent shall be entitled to receive any and all benefits established by Board policy for management employees of the School District. To the extent that benefits for other management employees duplicate a benefit provided pursuant to this Contract, the benefit provided by this Contract shall be the benefit provided to the Superintendent.

**i. Business and Professional Activities.**

The Board expects the Superintendent as a condition of his employment to continue his professional growth and education through participation in appropriate meetings and activities, such as (but not limited to) membership and participation in Indiana and national professional organizations for educational administrators, attendance at seminars and courses, and meetings of the State Superintendent and State Board of Education. The Board agrees to pay all reasonable expenses related to the Superintendent's attendance and participation in these organizations and/or conferences, seminars and meetings, including registration fees, travel, and food.

In addition, the Board expects that the Superintendent will incur reasonable and necessary expenses on behalf of the School District, such as meals, entertainment, travel, professional books and supplies, and similar expenses. The Board shall

reimburse the Superintendent for such reasonable and necessary expenses, provided that records of such expenses are submitted to the Board in a form and manner acceptable to the Board.

**5. Automatic Extension of this Contract.**

The parties agree that on June 30, 2012, this Contract shall automatically be extended for an additional year effective the next day, *i.e.* on July 1, 2012 unless a party gives the other written notice on or before the preceding January 1, 2012 that the party does not agree to the automatic extension of this Contract. The parties further agree that thereafter on each June 30 this Contract shall automatically be extended for an additional year effective the next day, *i.e.* on July 1, unless a party gives the other written notice on or before the preceding January 1 that the party does not agree to the automatic extension of this Contract. The parties agree that the operation of this Paragraph shall result in a continuous three (3) school year contract unless one party provides timely written notice to the other pursuant to this Paragraph or the Contract is cancelled pursuant to Paragraph 6 of the Contract. All provisions other than the length of the Contract shall remain the same upon extension by operation of this Paragraph unless the parties specifically agree in writing to the modification of a term in addition to the modification of the length of the Contract.

**6. Cancellation of the Contract.**

**a. Cancellation by the Board for Superintendent's Failure to Meet Minimum Qualification Standards.**

The parties agree that it shall be the duty of the Superintendent to maintain a superintendent's license from the Office of Educator Licensing and Development in the Indiana Department of Education, and that if the Superintendent fails to maintain such license, this Contract shall terminate immediately upon written notice from the Board to

the Superintendent without the requirement for any due process or other pre-condition to cancellation or any payment to the Superintendent.

**b. Cancellation by the Board for a Reason or Reasons Other Than the Superintendent's Failure to Continue to Meet Minimum Qualification Standards.**

In addition to the cancellation of the Contract for failure of the Superintendent to meet minimum qualifications for continued employment pursuant to Sub-Paragraph 6(a), the parties agree that this Contract may be cancelled pursuant to its own terms in any one of the following circumstances:

1. the parties agree in writing to cancel this Contract;
2. the Superintendent is determined to be disabled within the terms of the long-term disability policy provided by the Board and he is entitled to benefits under that policy;
3. the Superintendent is convicted of a felony under state or federal law;
4. the Superintendent dies;
5. the Superintendent provides the Board with at least ninety (90) days written notice of cancellation; or
6. the Board provides the Superintendent with at least thirty (30) days written notice that it intends to cancel the Contract and pays the Superintendent a single lump sum equal to one year's compensation set forth in Sub-Paragraphs 4(a) and (e) of this Contract at the level in effect on the date of cancellation of the Contract. This lump sum payment shall be paid to the Superintendent within sixty (60) days after termination of employment with the School District.

**c. Waiver of Due Process and Breach of Contract Remedies.**

Except as provided in Sub-Paragraph 6(a) of this Contract, the parties agree that the provisions of Sub-Paragraph 6(b) of this Contract shall be the sole and exclusive



means of canceling this Contract or obtaining a legal or equitable remedy for breach of this Contract. In exchange for the agreement to this provision by the other party, the Board and Superintendent waive the application of the termination provisions and the hearing requirement under Ind. Code 20-28-8-7; the application of any other procedural requirement or substantive standard imposed by state or federal law; and any cause of action for damages or equitable relief arising out of the cancellation of this Contract except as is necessary to enforce this Contract in an action unrelated to its cancellation.

**7. Defense and Indemnification of the Superintendent for Acts in Performance of his Duties as Superintendent.**

In all claims, demands, causes of action, and judgments arising out of the performance of the duties set out in Paragraph 3 of this Contract, the Board agrees to provide the Superintendent with legal counsel selected and paid for by the Board and acceptable to the Superintendent; and to defend, indemnify, and hold the Superintendent harmless to the fullest extent permitted by law in all civil and administrative proceedings before a state or federal court. The Paragraph shall not require nor prevent the Board from assuming, paying, or re-paying the costs of the defense of a state or federal criminal charge against the Superintendent or a proceeding to revoke the Superintendent's license from the Indiana Professional Standards Board where there is a dismissal of the charges or there is a finding in the Superintendent's favor.

In the circumstance in which the Superintendent is entitled to a defense, indemnification, or to be held harmless pursuant to this Paragraph, if the Board is advised in writing by its legal counsel of an actual or potential conflict of interest between the Board and the Superintendent which in the opinion of the Board's counsel warrants the employment of separate counsel for the Superintendent, the Board shall employ separate counsel selected by the Superintendent at the Board's expense.

**8. Integration of the Full Agreement of the Parties Into This Contract, Authorship of this Contract, and Governing law.**

The parties agree that each has had the opportunity to obtain the assistance of counsel in the process of negotiating and preparing the terms of this Contract, has had sufficient time to consider and understand the terms of this Contract, and that this Contract therefore contains all the agreed terms of employment of the Superintendent by the Board and will not be modified except in a written document making specific reference to this Contract and the specific provision to be modified. A modification to this Contract shall be approved by both parties in the same manner that this Contract was approved.

As to the interpretation of this Contract by a court, the parties agree that both parties contributed to the development of the language of this Contract and therefore for purposes of interpretation of this Contract, both parties shall be considered to have been the author of this Contract. The parties further agree that this Contract shall be interpreted and applied using the laws of the State of Indiana.

The parties further agree that to the extent that this Contract is inconsistent with the Superintendent's basic teacher contract or any prior contract between the parties, the terms of this Contract shall control.

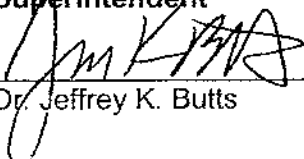
The parties agree that this Contract shall be reviewed and revised as necessary to comply with applicable laws.

**9. Contract as a Public Record.**

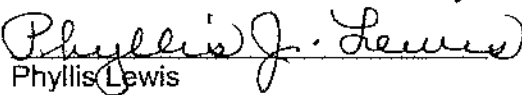
The parties agree that this Contract is a public record under the Indiana Access to Public Records Law, Ind. Code 5-14-3, and Ind. Code 20-28-6-2 pertaining to teacher contracts generally.

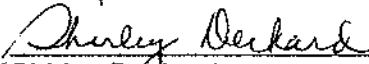
Agreed this 4<sup>th</sup> day of October, 2010.

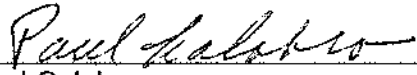
Superintendent

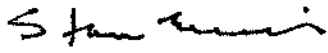
  
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Dr. Jeffrey K. Butts

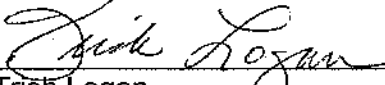
Board of Education

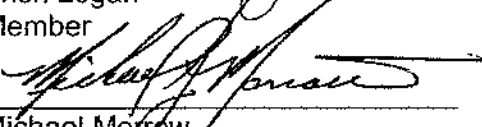
  
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Phyllis Lewis  
President

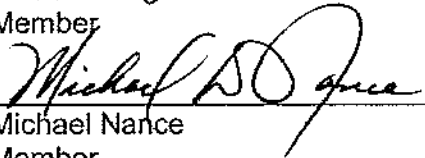
  
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Shirley Deckard  
Vice President

  
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Paul Calabro  
Secretary

  
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Stan Ellis  
Member

  
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Trish Logan  
Member

  
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Michael Morrow  
Member

  
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Michael Nance  
Member