

Superintendent Employment Contract
Between the Board of Trustees of the San Bernardino City Unified School District
and
Harry “Doc” Ervin

This contract ("Agreement") is entered into as of this 1st day of June 2021, between the Board of Trustees ("Board") of and on behalf of the San Bernardino City Unified School District ("District") and Harry “Doc” Ervin (“Superintendent”). The above named parties hereby mutually agree and promise as follows:

1. **Employment:** Pursuant to a vote of the Board duly taken and recorded in the minutes of its meeting, the District hereby employs Mr. Ervin as its Superintendent and Mr. Ervin accepts employment as Superintendent for the San Bernardino City Unified School District. By accepting employment as Superintendent, Mr. Ervin agrees to devote his full time best efforts and abilities to performing the duties and responsibilities outlined herein or as assigned to him by the Governing Board.
2. **Term:** Beginning June 1, 2021, the Board employs the Superintendent for a period of three years terminating on June 30, 2024. The Superintendent cannot be reassigned to another position in the District. In the event Mr. Ervin’s services are required by the Board prior to June 1, 2021, Mr. Ervin agrees to provide up to ten (10) days of such services and shall be compensated at a per diem rate based upon the annual salary provided in paragraph 10, below.
3. **Amendment of Agreement:** This Agreement shall only be changed, modified or amended by mutual written consent of the parties, subject to ratification at a regularly scheduled Board meeting.
4. **Contract Renewal:** On or before March 15, 2022, the Board and Superintendent shall conduct a review of the Agreement. Prior to March 15, 2022, the Superintendent will submit to the Board a new contract proposal. The Board will have until July 1, 2022 to respond to the Superintendent's proposal. If the Board does not respond to the proposal by the agreed date, the terms and conditions of the Agreement will remain in effect until the expiration of the Agreement or its termination under Article 5 or 6 of this Agreement. Any renewal agreed upon shall be subject to ratification at a regularly scheduled Board meeting.
5. **Intellectual Property:** Any and all inventions, discoveries, developments, innovations, programs or practices conceived by the Superintendent relative to the duties under this Agreement shall be the exclusive property of the Superintendent. However, the Superintendent agrees to license all intellectual properties to the District at no cost.
6. **Termination by the Superintendent:** The Superintendent may voluntarily terminate this Agreement prior to its expiration by giving not less than ninety (90) days prior written notice to the Board. Should the Superintendent voluntarily terminate the Agreement, the District shall be liable for his salary only for that portion of the Agreement for which his services were actually rendered.
7. **Termination by the Board:** The Superintendent may be terminated under the following provisions:

a) The Board may terminate the Superintendent for just cause and after an opportunity to be heard on all matters by an impartial hearing officer. For the purposes of this Agreement, "for cause" is defined to consist solely of major malfeasance, as determined by an impartial hearing officer. Should the Board elect to pursue termination for cause, the Board must first provide the Superintendent with a statement detailing the incidents of major malfeasance and give Superintendent six months to demonstrate improvement.

b) The Board may, in its discretion and without cause, terminate this Agreement upon ninety (90) days prior written notice. If the Board elects the option to terminate this Agreement without cause, it must do so by taking action at a regular board meeting through a majority vote of the Board. The Superintendent will not be included in a closed session where the Board discusses termination of his contract. Upon termination under this provision, the District shall pay the Superintendent's current annual salary for the remaining term of this Agreement in conformance with the provisions of Government Code Section 53260, *et seq.*, which are incorporated into this Agreement by this reference, and as otherwise provided below. Specifically, in conformance with Government Code Section 53260, *et seq.*, if this Agreement is terminated prior to the expiration of its term, the maximum cash settlement that the Superintendent shall receive shall be an amount equal to the monthly term of the Agreement or twelve (12) months, whichever is less, and be entitled to the health insurance benefits the Superintendent has elected for the same period of time.

8. **Abuse of Power/Termination for Cause:** The provisions in this section are intended to comply with Government Code sections 53243, *et seq.* and 53260, *et seq.*, which are incorporated herein by this reference.

a) If the Superintendent is convicted of a crime involving an abuse of his office or position, he shall fully reimburse the District of any and all cash settlements received due to his termination. This provision is intended to implement the requirements of Government Code section 53243.2, which is incorporated into this Agreement by this reference.

b) If the Superintendent is placed on paid leave or if his legal defense in a criminal trial is paid by the District, and he is subsequently convicted of a crime involving an abuse of his office or position, he must reimburse the District for any funds used for those purposes. This provision is intended to implement the requirements of Government Code sections 53243 and 53243.1, which is incorporated into this Agreement by this reference.

9. **New Position:** The Superintendent must notify the Board President whenever he becomes a finalist for a new position with another district and prior to interviewing as a finalist.

10. **Salary/Work Year/Vacation Days:** The Superintendent's salary for 2021-2022 will be \$324,000, not including any longevity increments for which he may qualify. The work year shall be 224 work days, not inclusive of 24 vacation days. The salary shall be paid in equal monthly installments. The Superintendent shall be accorded such salary increases as granted to the District's certificated employees for every successful year. Any such salary increase shall be subject to ratification at a regularly scheduled Board meeting.

The Board reserves the right to otherwise adjust the Superintendent's salary. Any adjustment in salary during the term of this contract shall only be in the form of an amendment and only as mutually agreed to by and between the parties, and shall not operate as a termination of this

contract. It is further provided that, with respect to any adjustment in salary, it shall not be considered that a new contract has been entered into or that the termination date of the existing contract has been extended. Except as otherwise provided herein, any such salary adjustment during the term of this Agreement shall be subject to ratification at a regularly scheduled Board meeting.

The Superintendent can bank/save a maximum of 48 unused vacation days and shall be reimbursed upon his separation from employment from the District at his daily rate of pay for any unused vacation days. His daily rate is determined by dividing his annual salary by his work year (224 days).

11. **Fringe Benefits:** The Superintendent shall be accorded such fringe benefits of employment as are granted to the District's "management team" employees and:
 - a) CalSTRS Audit: The District will fully indemnify and provide mutually agreeable legal defense in the event CalSTRS audits the superintendent's employment contract or retirement income and has a finding of overpayment. In no case will individual Board members be personally liable for indemnifying the superintendent against such demands, claims, suits, actions and legal proceedings.
 - b) Auto allowance: The Superintendent shall receive an annual auto allowance of \$9,000 paid monthly at \$750 which covers all mileage, maintenance, gasoline and any other auto-related expenses. The parties acknowledge and understand that this allowance shall not be included in the Superintendent's STRS contribution calculation, except if specifically authorized by law.
 - c) Housing allowance: The Superintendent shall receive an annual housing allowance of \$18,000 paid monthly at \$1,500 for the term of this contract if the Superintendent's primary residence is within the boundaries of the District. The parties acknowledge and understand that this allowance shall not be included in the Superintendent's STRS contribution calculation, except if specifically authorized by law.
 - d) Technology: District provides cell phone and full use of all forms of technology of the Superintendent's choice (including, but not limited to, computers, tablet devices, cellular and data services, etc.), plus all related charges for reasonable personal and District use.
 - e) Expenses: The Superintendent shall be provided a District credit card for reasonable and necessary expenses incurred within the scope of employment while representing the District - *i.e.*, meals at conferences. Except as herein provided, the District shall provide reimbursement to the Superintendent for all reasonable and necessary business-related expenses as paid by the Superintendent in the conduct of his duties and on behalf of the District.
 - f) Professional Organizations/Conferences: The Board encourages the Superintendent as CEO to participate in professional organizations, conferences and activities at the local, county, state, and national level at the discretion of the Superintendent. The Board shall pay the Superintendent's related membership dues, fees, and expenses accordingly.
 - g) Sick Leave: The Superintendent shall accrue 30 days of sick/personal leave per year.

- h) Health and Welfare Benefits: Health and Welfare Benefits: The Superintendent shall be provided full coverage for health, dental and vision benefits commensurate with other certificated managers, including related post-retirement medical benefits.
- i) Hold Harmless: If the Superintendent is named personally in a legal action as a result of duties undertaken on behalf of the District, legal defense shall be determined pursuant to Government Code section 995, *et seq.*
- j) District shall contribute up to \$2000 per year toward the payments of premiums for a life insurance policy acceptable to the Superintendent.
- k) The District will provide a one-time relocation allowance of \$15,000 to cover costs associated with moving.

12. **Duties/Authority:** The Superintendent shall be governed by and perform the duties and responsibilities set forth in the laws of the State of California, and the formal duties as defined within this contract and by rules, regulations, policies, and advice and direction of the Board. The Superintendent:

- a) Shall be the chief executive officer ("CEO") and secretary to the Board. The Superintendent will be included in closed sessions including his performance evaluation. As CEO the Superintendent shall have the authority to administer all programs; funds; personnel; facilities; contracts; and other administrative and academic functions subject to oversight of the Board. The Superintendent will manage and lead the District within the scope of Board policies and Strategic Directions, Objectives and Priorities, and shall have the primary responsibility for execution of Board policy. The Board retains the primary responsibility for formulating and adopting said policy based on Strategic Directions, Objectives and Priorities.
- b) Shall possess the authority to manage day to day decisions of the District.
- c) Shall have the authority to organize or reorganize the administrative and all management staff upon Board approval. All discussions regarding organization and/or reorganization of administrative staff will occur in closed session. The Superintendent shall recommend all new employees to the Board for their approval. The Board reserves the right to accept or reject the Superintendent's recommendations to hire personnel. If the Board rejects the Superintendent's recommendation the Superintendent has the authority to make a new recommendation until it meets with Board approval.
- d) Shall have the authority to accept employee resignations. The resignation is final once the Superintendent or his designee signs and dates said resignation. The Superintendent shall inform the Board of all resignations at the next regular Boardmeeting.
- e) Shall review all policies adopted by the Board and make appropriate recommendations to the Board.
- f) Shall evaluate employees as provided for by California law and/or Board policy.

- g) Shall advise the Board on the financial health of the District on a regular basis.
 - h) Shall maintain and improve professional competence by all available means: journals, conferences, associations and their activities.
 - i) Shall participate in community activities.
 - j) Shall serve as the liaison between the Board on all employer-employee matters and make recommendations to the Board concerning these matters.
 - k) Understands that he is hired by the Board to manage and to lead the District to achieve the Board's goals and objectives by coordinating the actions of schools and departments to achieve the Board's Vision and Mission.
 - l) Shall draft a mutually agreed upon objective based evaluation for the Superintendent's job performance rating and submit same to the Board based on a mutually agreeable timeline.
 - m) In consultation with the Board, may select, at District expense, a third party facilitator for all Board/Superintendent workshops and special meetings related to Board self-evaluation and Superintendent evaluation. The Board retains the right to consult legal counsel on all matters related to the Superintendent's job performance, evaluation or contractual agreements.
13. **Evaluation:** It is agreed that the Board will evaluate the Superintendent annually based on a mutually agreeable timeline. The Superintendent is responsible for informing the Board of the approach of the evaluation deadline no less than sixty (60) days prior to the deadline. If the Superintendent fails to do so, the Board's new deadline will be sixty (60) days after the Board is notified. A satisfactory evaluation is determined when four (4) or more members of the Board vote to approve a satisfactory or better evaluation. Upon a satisfactory or better evaluation, the Board will prepare a letter of recommendation for the Superintendent.
- a) Evaluation: The Board and Superintendent shall draft a mutually agreed upon objective based evaluation for the Superintendent's job performance rating and the Board will evaluate the Superintendent's performance using the mutually agreed upon objectives for the evaluation. The Board requires the Superintendent to provide a written analysis of evidence in meeting the performance objectives prior to the Board reaching final agreement on the evaluation. The Board will submit a written evaluation of the Superintendent's performance to him each year based on a mutually agreeable timeline.
 - b) Board Self- Evaluation: Prior to evaluating the Superintendent, the Board may conduct a self-evaluation, in accordance with Board Bylaw 9400, and use the self-evaluation to prepare a focus for its evaluation of the Superintendent.
14. **Board-Superintendent Relations:** The Superintendent will work with the Board in developing and maintaining a spirit of cooperation and teamwork in which the Board will accept responsibility for formulating and adopting policy and for taking action on matters which by law require Board action. Administrative responsibility and commensurate authority for

administering the school system will be delegated by the Board to the Superintendent. The Board shall provide the Superintendent with periodic opportunities to discuss Board-Superintendent relationships. As a part of this provision, if deemed necessary by either the Board or Superintendent, an outside advisor may be retained to facilitate candid discussion and evaluation of Board- Superintendent relationships as they relate to the Board's productivity and the effectiveness of the Superintendent's leadership. It is agreed that the Board, individually and collectively, will refer promptly to the Superintendent, for study and recommendation, criticism, complaints, and suggestions brought to their attention.

15. **Professional Liability:** The District will cover Superintendent under its liability insurance policy which covers errors and omissions by District managers and/or agents arising out of the scope of their employment; Superintendent will be provided such protections, defenses, legal representation and indemnification as are provided under such policy of insurance and consistent with all applicable state and federal laws.
16. **Governing Law:** This Agreement is subject to all applicable laws of the State of California and the lawful rules and regulations of the Governing Board of the San Bernardino City School District as well as those of the California State Board of Education. Such laws, rules, and regulations are to be considered part of the terms and conditions of this Agreement.
17. **Complete Agreement:** This Agreement is the full and complete agreement between the parties hereto. Any amendments, modifications or variations from the terms of this Agreement shall be in writing and shall be effective only upon approval of such amendment, modification, or variation by the Governing Board and the Superintendent.

Signatures of the Superintendent and Board of Trustees

Harry “Doc” Ervin, Superintendent

Date: _____

Gwendolyn Rodgers, President, Board of Education

Date: _____

Dr. Scott Wyatt, Vice President, Board of Education

Date: _____

Abigail Medina, Board Member

Date: _____

Danny Tillman, Board Member

Date: _____

Dr. Barbara Flores, Board Member

Date: _____

Dr. Margaret Hill, Board Member

Date: _____

Mayra Ceballos, Board Member

Date: _____