

SUPERINTENDENT EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT ("Agreement"), dated May 26, 2022 for identification, is made by and between the MARTINSVILLE CITY SCHOOL BOARD (the "School Board"), a Virginia public body corporate, and DR. ZEBEDEE TALLEY, JR. (the "Superintendent"), a resident of the Commonwealth of Virginia.

1. Recitals.

1.1 The Superintendent has served as Division Superintendent for the Martinsville City Public Schools Division (the "Division") since October, 2016.

1.2 The School Board and the Superintendent previously entered into a contractual relationship, including the Employment Agreement dated June 14, 2021, for the Superintendent to continue serving as the Division Superintendent of Martinsville City Public Schools for a new term, ending June 30, 2023.

1.3 The School Board and the Superintendent desire to continue and extend their relationship and have agreed to enter into a new agreement that would, among other things, include a new term of office of the Superintendent as Division Superintendent.

1.4 At its May 26, 2022 meeting, at which all members were present and voted, the School Board adopted a motion, with the concurrence of the Superintendent, essentially to: terminate at 12:00 midnight on June 30, 2022 the prior appointment of the Superintendent and, deeming his prior term of office as then having also expired, reappoint him immediately thereafter to a new four-year term to commence July 1, 2022 and to end June 30, 2026, with the understanding and conditions reflected in this Agreement; and authorize and direct the Chair of the School Board to execute this Agreement on behalf of the School Board. In taking this action, after review of the performance of the Superintendent, the School Board recognizes the dedicated service of the Superintendent and assures his ongoing service in the key leadership role as Division Superintendent at a time when continuity of outstanding leadership is particularly valuable and essential to the Division.

1.5 The parties wish to enter into an Agreement setting forth the terms of such appointment and employment during this new term of office.

1.6 These recitals are an integral part of this Agreement.

2. Appointment and Employment. With the concurrence of the Superintendent, the

School Board hereby terminates the prior appointment and employment of the Superintendent, effective 12:00 midnight on June 30, 2022, and immediately thereafter appoints and employs the Superintendent as the Division Superintendent for a new term of office commencing July 1, 2022 and ending June 30, 2026. The Superintendent hereby accepts such new appointment and employment and agrees to perform faithfully and exemplarily the duties of the Division Superintendent as prescribed by law and by the policies, regulations, and directives of the School Board.

3. **Compensation.**

3.1 **Annual Salary.** The School Board will pay the Superintendent an annual salary of \$147,000.00 plus a doctoral stipend of \$5,000.00, to perform faithfully and exemplarily the duties of the Division Superintendent. The annual base salary, subject to usual withholding, will be paid in equal installments in accordance with the policies and regulations of the Division governing payment of its professional staff.

3.2 **Additional Salary: Deferred Compensation Contribution.** For each fiscal year during the term of this Agreement, which fiscal year will conclude on June 30 of each year of service under this Agreement, the School Board will make contributions for the Superintendent's benefit to an annuity and deferred compensation plan, consistent with and under section 401(a), 403(b), 457, or similar or successor provisions of the Internal Revenue Code, as designated by the Superintendent, in a total amount equal to ten percent (10%) of the Superintendent's annual salary, with all principal, interest, and dividends accruing therefrom to be the property of the Superintendent. The School Board will make such contributions in equal installments, on the same dates as payroll is paid. The School Board and the Superintendent also acknowledge and agree that these contributions are not conditional, these contributions would otherwise have been included in the Superintendent's annual salary, and the Superintendent has elected the deferral. All of such amounts, to the fullest extent permitted by law, will be included and reported in the Superintendent's total creditable compensation for VRS retirement contribution purposes. In any event, however, the amount of any contribution under this provision will not exceed the amounts allowable by law.

3.3 **Virginia Retirement System.** The School Board will contribute to the VRS, for the benefit of the Superintendent, in equal installments, the maximum amount permitted

by law based on the Superintendent's total creditable compensation as included and reported to the VRS.

3.4 Adjustment to Compensation. The Superintendent's annual salary compensation, as referenced in Subsection 3.1, will increase automatically by at least the average percentage salary increase authorized by the School Board for other School Division employees at the same effective time. Otherwise, except as provided herein, at no time will an adjustment to the Superintendent's compensation be made without the prior written agreement of the Superintendent and the School Board.

4. Duties of Superintendent.

4.1 The Superintendent will serve as the chief administrative and executive officer of the Division in accordance with the laws of the Commonwealth of Virginia, the regulations and policies adopted by the Virginia Board of Education, the policies and regulations adopted by the School Board, and the legal directives of the School Board. The Superintendent agrees that he will devote his best, full-time skill, labor, and attention to these duties.

4.2 The Superintendent agrees to perform any other legally permissible duties or functions that the School Board may assign to him at any time during the term of this Agreement consistent with the office of Division Superintendent.

4.3 The Superintendent will direct the administration of the Division, under the governance of the School Board. He will be the chief administrative and executive officer; will select, organize and assign all personnel, as best serves the Division, subject to any required governance approval and policies of the School Board and the laws of the Commonwealth and other law; will oversee the instructional program, business and financial affairs and personnel of the Division; will from time to time recommend regulations, rules, and procedures deemed necessary to maintain and promote order in the Division; and in general perform all duties incident to the office of Division Superintendent as prescribed by law and School Board policies and regulations and such other duties as may be prescribed by the School Board from time to time.

4.4 The Superintendent will fully and completely inform the School Board of any and all information that is relevant and material to governance by the School Board.

4.5 The School Board and its members, both individually and collectively, will promptly refer all criticisms, complaints, and suggestions concerning the Division or its employees

to the Superintendent or his designee for investigation, study, review and recommendation, as may be merited.

5. **Superintendent Qualifications.** Throughout the term of this Agreement, the Superintendent will be deemed to have made continuing, affirmative representations about his excellent character, knowledge, skills, experience, and ability to perform exemplarily the duties of the Division Superintendent, including the representations included in the application for employment, any resume, and any supplemental representations, written or oral, in support of the application, and any material inaccuracy or omission in such representations will entitle the School Board to terminate this Agreement without further obligation or liability to the Superintendent. The Superintendent will maintain all necessary and appropriate qualifications, including but not limited to excellent personal and professional character and reputation, to serve as the Division Superintendent. The Superintendent will furnish to the School Board current evidence of such qualifications, as may be requested from time to time by the School Board or the School Board Chair.

6. **Leave Time.**

6.1 **Annual Leave.** The Superintendent will receive a total of 25 days of annual leave in addition to holidays recognized by the Division. Unused earned annual leave may be accumulated up to a total of 75 days, to be administered otherwise in accordance with the policies and regulations of the School Board.

6.2 **Sick Leave.** The Superintendent will receive 12 days of annual sick leave. Unused sick leave may be accumulated up to a total of 240 days, to be administered otherwise in accordance with the policies and regulations of the School Board.

6.3 **Personal Leave.** The Superintendent will receive 4 days of personal leave annually. Personal leave may accumulate up to a maximum of 5 days. The Superintendent will also receive 2 days of leave for family illness, in addition to any other leave granted under law and School Board policies. Unused personal leave days in an amount beyond those permissibly accumulated under this provision will be converted to sick leave days at the end of each fiscal year as provided for by School Board policies and regulations, subject to the election permitted under the provisions of Subsection 6.4 of this Agreement.

6.4 **Payment of Unused Accrued Leave.** For each fiscal year of service while

this Agreement is in effect, but no later than June 15, the Superintendent, at his own election, may designate up to 25 days of accrued but unused annual, sick, or personal leave, at his discretion, to be paid to him on a per diem basis with his June 30 pay check, or to be treated as additional payment to his deferred compensation plan(s) set forth in Subsection 3.2, subject to the limitation that the total amount of contribution will not exceed the amount allowable by law. As to any days designated for deferred compensation, the School Board will contribute to the deferred compensation plan(s) set forth in Subsection 3.2 an amount determined by multiplying the number of designated leave days earned that fiscal year by the per diem rate. The per diem rate will be the quotient produced by using the then total creditable compensation as the dividend and 245 (days) as the divisor. Any leave day that is converted to salary or to a contribution to the deferred compensation plan, as provided for in this Subsection, thereafter will no longer be counted or used by the Superintendent as a leave day. Unused accumulated leave remaining as of the date of termination not for cause or the expiration date of this Agreement will be paid to the Superintendent in full, notwithstanding any other School Board policies to the contrary for employees. If the Superintendent is discharged by the School Board for cause as provided for in Section 11, then in such event the School Board will make no payments to the Superintendent for unused accumulated leave, with the exception of those days that have already been converted to a contribution to the deferred compensation plan.

7. Payment of Other Benefits and Expenses.

7.1 Insurance. The School Board agrees to provide health insurance benefits for the Superintendent commensurate with the benefits provided to other full-time employees in the Division. The Board also agrees to pay the total premium for VRS group term life insurance for the Superintendent.

7.2 Professional Organizations and Expenses. The School Board encourages professional growth of the Superintendent and participation in civic and service organizations. The School Board, therefore, will pay for the Superintendent's membership in the Virginia Association of School Superintendents, the American Association of School Administrators, the Virginia School Boards Association, and local civic organizations designated by the Superintendent. The School Board, upon prior approval, may pay all reasonable expenses, within the allowance of the annual budget, for membership in other applicable professional organizations

submitted to the School Board for payment. The School Board, upon prior approval, may also pay all reasonable expenses incurred by the Superintendent, within the allowance of the annual budget, submitted to the School Board for payment for attendance at appropriate professional meetings held at the local, state, and national levels. The School Board, upon prior approval, may further pay all reasonable expenses incurred by the Superintendent, within the allowance of the annual budget, submitted to the School Board for documented reasonable and ordinary expenses incurred in entertaining professional visitors and guests of the Division.

7.3 **Mobile Phone and Laptop Devices.** At the School Board's expense, the Superintendent will be provided a laptop and mobile phone, which includes email and other smart-phone features, with the Superintendent authorized to use such services for incidental personal purposes.

7.4 **Automobile.** Recognizing that the travel involved in serving as Superintendent is extensive, essentially involving being on call 24 hours a day, seven days a week, the School Board will provide the Superintendent access to a School Board motor vehicle when the circumstances merit, as determined in the sole discretion of the Superintendent, which may include incidental personal use. The School Board will provide all maintenance, insurance, gasoline, and other costs associated with the vehicle.

7.5 **Other Expenses.** The School Board will provide for all other necessary traveling and office expenses of the Superintendent consistent with applicable law and School Board policy. Records of all expenses will be maintained and promptly submitted by the Superintendent for reimbursement in accordance with this Agreement and with School Board policies and regulations.

7.6 **Other Benefits.** The Superintendent will be entitled to any other benefits as provided for by School Board policy for twelve (12) month administrative personnel unless otherwise provided for or noted in this Agreement. Such benefits will be provided in accordance with all applicable School Board policies and regulations, as may be revised from time to time.

8. **Evaluation.** Using an agreed instrument consistent with applicable law, the School Board will annually evaluate the Superintendent. Such evaluation must be completed before the end of each fiscal year, absent extenuating circumstances. The School Board will devote at least a portion of a scheduled School Board meeting to conduct the Superintendent's evaluation

and discuss the working relationship between the Superintendent and the School Board. The School Board will provide evaluative feedback and establish performance criteria that can be used constructively by the Superintendent during the subsequent year. All aspects of such discussions will be treated confidentially by the School Board and the Superintendent, to the fullest extent permitted by law. Such discussions will be held in a closed meeting so long as the closed meeting is consistent with applicable law. In its sole discretion, the School Board may provide performance bonuses to the Superintendent, upon his above satisfactory completion of the performance criteria established by the School Board, in such amounts and at such times as it deems appropriate.

9. **Agreement Renewal.** The Superintendent and the School Board, solely as a courtesy and without obligation or liability, will endeavor to notify each other not later than six (6) months prior to expiration of the term of this Agreement (June 30, 2026) of any intention not to continue the employment relationship beyond the term of this Agreement. Such communications will be treated confidentially and will be held in a closed meeting so long as the closed meeting is consistent with applicable law. Nothing herein will prohibit a mutually agreed upon termination or modification of this Agreement consistent with applicable law.

10. **Other Work or Activities.** The Superintendent covenants and agrees to devote, full time, his skill and labor during the term of this Agreement toward the fulfillment of his duties pursuant to this Agreement. It is expressly agreed that the duties of this position necessarily and routinely require the Superintendent to work during times beyond usual business hours. The Superintendent may, with prior, reasonable written notification to the School Board and absent the School Board's objection thereafter, undertake speaking engagements, writing, lecturing, or other professional activities for compensation so long as such activities do not interfere with his duties under this Agreement. Pursuant to Virginia Code § 22.1-66, the office of the Superintendent will not be deemed vacant upon the Superintendent engaging in any other business or employment so long as the Superintendent gives such prior, reasonable written notification to the School Board, there is no School Board objection, and the Superintendent uses annual or personal leave for time away from the usual business day (defined as the time the School Board office is open to the public). The Superintendent shall make every effort to inform the Board Chair when such occasions arise. The School Board accordingly acknowledges, accepts, and pre-approves the Superintendent's concurrent service as a Minister of the Christian Gospel and that upon occasion

the Superintendent's pastoral duties may conflict and take precedence over his service as Superintendent. The Superintendent may also attend a reasonable number of appropriate professional meetings at the local, state, or national level that may be beneficial to his performance under this Agreement and/or may enhance the operation of the Division and will not interfere with the Superintendent's duties under this Agreement.

11. Fine, Suspension, or Termination for Cause.

11.1 Sufficient Cause. The Superintendent, in accordance with Virginia Code § 22.1-65, may be assessed a reasonable fine, suspended from office for a limited period of time, or removed from office by either the Virginia Board of Education or the School Board for sufficient cause. Sufficient cause may include, but is not limited to, material breach of this Agreement; forfeiture of office; immorality; material non-compliance with federal and state law and regulations; material non-compliance with School Board policies and regulations; a charge of a felony or a misdemeanor (or an equivalent offense in another state or under federal law), other than a traffic offense involving only a fine, which upon review of the underlying circumstances the School Board reasonably determines involves a material act or omission that reflects adversely upon the School Board, the Division, or the office of Division Superintendent, based upon substantial evidence; conviction of a felony; any other material act or omission that reflects adversely upon the School Board, the Division, or the office of Division Superintendent; or any other sufficient cause that renders the Superintendent unfit to continue his duties. All salary and benefits will cease as of the effective date of such suspension or termination or other removal or discharge from office.

11.2 Notice and Hearing. In the event the School Board determines that the Superintendent has engaged in conduct or committed any act or omission that constitutes "sufficient cause" for purposes of Subsection 11.1, the School Board will meet with the Superintendent in closed session for a conversation, if permitted by law and to the extent practical and reasonable under the circumstances, to notify him informally of the essence of any facts and circumstances that may constitute such "sufficient cause" and to provide the Superintendent with an opportunity to respond to the School Board's concerns and to explain his conduct or actions. Thereafter, the School Board, upon request by the Superintendent, will serve written charges and notice of hearing upon the Superintendent before taking any action to fine or remove the

Superintendent. The Superintendent may, in his sole discretion, thereafter be accompanied by and represented by legal counsel at all hearings held by the School Board under this section provided that such expenses are incurred and paid by the Superintendent personally. To the extent authorized by law, the Superintendent may appeal to a court of competent jurisdiction any decision of the School Board or the Virginia Board of Education to assess a fine against him, to suspend him, or to remove him from office.

11.3 Damages. In the event that the Superintendent is terminated by the School Board pursuant to Subsection 11.1 and it is later found that "sufficient cause," as provided for in Subsection 11.1, did not exist at the time of termination, the Superintendent will be entitled to all salary and benefits for a period of one (1) year from the effective date of such termination, or until June 30, 2026, whichever period is shorter. The parties acknowledge and agree that such termination may cause the Superintendent to incur economic damages and losses of types and in amounts that are impossible to compute and ascertain with certainty as a basis for recovery upon the execution of this Agreement. The parties further acknowledge and agree that such payment is reasonable and will be considered liquidated damages, intended to represent actual damages and not intended as a penalty, such actual damages being difficult to quantify, and will be in lieu of all other damages of every kind and nature, including without limitation compensatory and punitive damages, that could be claimed by the Superintendent for any cause of action whatsoever whether under state and/or federal law related to, concerning, or arising from the termination.

11.4 Voluntary Resignation. Nothing herein will be deemed to limit the right of the Superintendent to tender his voluntary resignation; provided, however, that such resignation will be in accordance with Sections 9 and 12 of this Agreement.

12. Voluntary Resignation. The Superintendent agrees to give the School Board at least ninety (90) days prior written notice of his tendered voluntary resignation; provided, however, that the School Board may, in its sole discretion, waive any or all of this ninety (90) day notice requirement and terminate this Agreement immediately or effective on any other date as may be determined by action of the School Board. Unless otherwise provided for by the School Board policies or regulations, all salary and benefits will cease as of the effective date of such resignation.

13. Termination Not For Cause. In the event the Superintendent is terminated by the School Board for a reason not enumerated in Subsection 11.1, including as a result of the

consolidation, reversion, or other dissolution of Martinsville City Public Schools with Henry County Public Schools, the School Board will provide the Superintendent with reasonable notice of the termination ("Termination Date"). As of the Termination Date, the Superintendent will be entitled to (a) all salary and compensation set forth in Section 3 above for a period of one (1) year after the Separation Date, and (b) the additional amount of \$5,000.00, payable in a lump sum, less any required withholdings. The parties acknowledge and agree that the payment described in this paragraph is the sole and exclusive remedy, in addition to the leave conversion set forth in Subsection 6.4 above, upon any termination not for cause.

14. Indemnity.

14.1 Indemnification of the Superintendent. The School Board agrees to indemnify, defend and hold harmless the Superintendent and/or his estate from any and all demands, claims, damages, suits, actions, and legal proceedings brought against the Superintendent, in his individual capacity or in his official capacity, as agent and/or employee of the School Board for any incident or activity arising out of and within the scope of his duties as the Division Superintendent, provided that the actions of the Superintendent related to such demands, claims, damages, suits, actions and legal proceedings were undertaken in good faith, in accordance with the law, and within the scope of his official authority.

14.2 Insurance Coverage. The School Board agrees, as part of its usual insurance-risk management program, to procure liability insurance or self-insurance coverage for claims arising out of his duties as the Division Superintendent and within the scope of his employment, and agrees to either arrange for the defense of the Superintendent or pay the reasonable attorney's fees and expenses incurred by the Superintendent in defense of any matter for which this indemnity provision applies. Within 72 hours of becoming aware, the Superintendent will give notice to the School Board Chair and to the School Board's counsel of any claim that may or will be asserted against him and will fully cooperate with the School Board in the handling and defense of such claim.

14.3 Survival. The indemnity and defense obligations of the School Board as provided in this Section 14 will survive the termination and expiration of this Agreement as to any claim asserted against the Superintendent while he was in the employ of the School Board and arising out of his duties as the Division Superintendent and within the scope of his employment.

15. Other Terms and Conditions of Employment.

15.1 This Agreement is expressly subject to the laws of the Commonwealth of Virginia, the regulations of the Virginia Board of Education, and the policies and regulations of the School Board. Any provision of this Agreement which is contrary to or violates such statutes, regulations, and/or policies and regulations will be void and such statutes, regulations, and/or policies and regulations will control and supersede any such invalid provision of this Agreement. Additionally, if any provision of this Agreement is held void or invalid, all remaining portions of this Agreement will remain in full force and effect so long as they are severable from the invalid or void provision.

15.2 In no event will any change in School Board policies and/or regulations, during the term of this Agreement, alter or modify the Superintendent's vested rights otherwise provided for during the term of and pursuant to the provisions of this Agreement unless such change was mandated by law.

15.3 This Agreement supersedes any other agreement, written or oral, between the parties.

15.4 The provisions of this Agreement will not in any respect create or be construed to create any third-party beneficiaries.

15.5 Nothing in this Agreement will be construed or interpreted to be a waiver of any sovereign or other immunity of the School Board, its members, employees, agents, representatives, or successors in interest.

15.6 The failure of the Superintendent to perform the obligations agreed to in this Agreement will be reported by the School Board to the Virginia Board of Education, and will be considered sufficient cause to terminate the contract in accordance with Section 11 of this Agreement.

15.7 The obligations of the Board under Sections 11.3 and 13 are subject to and contingent upon the sufficient annual appropriation of funds.

16. **Contingency.** Employment of the Superintendent pursuant to this Agreement will be contingent upon the Superintendent furnishing to the School Board evidence that the Superintendent continues to be legally qualified to serve as the Division Superintendent in

accordance with the laws of the Commonwealth of Virginia and the regulations of the Virginia Board of Education.

17. **Forum Selection.** The School Board and the Superintendent agree that any proceeding connected with the subject matter of this Agreement or otherwise related to the rights of either party, contractual or extra contractual, will be instituted or filed and maintained solely in the Circuit Court for the City of Martinsville, or its successor, unless the proceeding alleges exclusively federal causes of action, in which case the proceeding may instead be instituted, filed and maintained in the United States District Court for the Western District of Virginia, Danville Division. Both parties agree that a proceeding under this provision may be instituted or filed in an appropriate administrative forum if so required by law.

18. **Waiver of Rights to Trial by Jury.** The Superintendent and the School Board irrevocably waive any and all rights to trial by jury.

19. **Controlling Law.** This Agreement, and the obligations and rights of the School Board and the Superintendent, will be governed by the laws of the Commonwealth of Virginia, without reference to conflict of law principles or rules.

20. **Successors and Assigns.** This Agreement will be binding upon and inure to the benefit of successors and permitted assigns of the parties. This Agreement may not be assigned, nor may performance of any duty hereunder be delegated by either party without the prior written consent of the other.

21. **Professional Advice; Tax Consequences.** The Superintendent and the School Board each acknowledge that they have had the opportunity to seek at their own expense the separate and independent advice of professionals regarding the implications of this Agreement, including but not limited to tax consequences.

22. **Notices.** All notices, requests, claims, demands and other communications hereunder will be in writing and will be given by delivery in person, mailed by courier or sent by facsimile and confirmed by telephone, or by registered or certified mail (postage prepaid, return receipt requested) to the respective parties as follows:

To the Superintendent:

Dr. Zebedee Talley
746 Indian Trail
P.O. Box 5548
Martinsville, Virginia 24115

To the School Board:

Martinsville City School Board Chair
746 Indian Trail
P.O. Box 5548
Martinsville, Virginia 24115

With Copy To:

Lindsay C. Brubaker, Esq.
T. Joel Francis, Esq.
The Virginia Education Law GroupSM of
BotkinRose, PLC
3190 Peoples Drive
Harrisonburg, Virginia 22801

The parties may change the addresses above by providing written notice to the other party.

23. **Application, Construction and Interpretation.** The terms of this Agreement will be applied, construed and interpreted without any regard to any rule or principle of construction concerning the drafting or authorship of the Agreement. The headings or captions in this Agreement are for convenience of reference only and also will not affect the construction or interpretation of the provisions.

24. **Entire Agreement.** The School Board and the Superintendent acknowledge that no representation, promise, inducement, or agreement not herein expressed has been made in connection with this Agreement. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist. The School Board and the Superintendent further acknowledge that this Agreement and the documents which are to be executed in connection herewith pursuant to the terms of this Agreement contain the entire agreement between the parties regarding the subject matter hereof and supersede and replace any and all prior oral and written agreements, arrangements, or understandings between them hereto relating to the subject matter hereof. This Agreement sets forth the entire agreements and understanding of the School Board and the Superintendent with respect to the subject matter of this Agreement. This Agreement may be amended or made full only by a written instrument signed on behalf of the School Board and by the Superintendent.

IN WITNESS WHEREOF, the Martinsville City School Board has caused this Agreement to be executed in its behalf by its Chair in accordance with the action by the School Board authorizing such execution, and the Superintendent also has executed this Agreement.

EXECUTED this 26th day of May, 2022.

MARTINSVILLE CITY SCHOOL BOARD:

By:

Donna Dillard

Ms. Donna Dillard, Its Chair

(SEAL)

12/31/24

Yvonne L. Lewis

Emily D. Parker

Antoinette M. Jones

SUPERINTENDENT:

Dr. Zebedee Talley, Jr.

(SEAL)

12/31/24