

BESSEMER AREA SCHOOL DISTRICT
EMPLOYMENT CONTRACT - SUPERINTENDENT OF SCHOOLS

Pursuant to Section 1229(1) of the Revised School Code and in accordance with the action found in the March 26, 2018 meeting minutes of the Board of Education ("Board") of the Bessemer Area School District ("District"), the Board employs Dave Wineburner ("Superintendent") according to the terms and conditions of this Contract as specifically described below.

1. Term. The Superintendent is employed for a three (3) year period from July 1, 2018 through June 30, 2022 subject to extension, non-renewal, and termination as provided in this Contract.

2. Contract Extension. This Contract may be extended by mutual agreement in a document executed by the parties. Additionally, pursuant to Section 1229 of the Revised School Code, if written notice of nonrenewal of this Contract is not given to the Superintendent at least ninety (90) days before the Contract termination, the Contract is renewed for an additional year.

3. Qualifications. The Superintendent represents that he possesses and will maintain through the term of this Contract all certificates, credentials, and qualifications required by law, including Sections 1246 and 1536 of the Revised School Code, Michigan Department of Education regulations, and those required by the Board to serve in the position assigned.

A. As a condition of continued employment, the Superintendent shall meet all continuing education requirements for the position assigned, as may be required by law or by the Michigan State Board of Education, and/or the Michigan Superintendent of Public Instruction

B. If at any time the Superintendent fails to maintain all certificates, credentials, continuing education requirements, or qualifications for the assigned administrative position, this Contract shall automatically terminate and the Board shall have no further obligation under its terms.

4. Duties. The Superintendent shall faithfully and diligently perform the duties of Superintendent as required by law and as prescribed by the Board, as well as those duties that may be further established, modified, or amended from time to time by the Board.

A. The Superintendent acknowledges the ultimate authority of the Board as to his duties and agrees to faithfully perform those duties and to diligently implement the Board's policies and education programs

B. The Superintendent will devote his talents, skills, efforts, and abilities toward competently and proficiently fulfilling all duties and responsibilities of the position

assigned, including compliance with the directives of the Board; to carry out its policies and educational programs

C. The Superintendent will comply with and fulfill all responsibilities and tasks for which he is responsible as required by state and federal law, as well as by the Board through its policies, regulations, and directives

D. The Superintendent will use his best efforts to maintain and improve the quality of District operations and to constantly promote efficiency in all areas of his responsibility.

5. Compensation. In consideration of his performance of the duties and responsibilities of the position assigned in conformance with the requirements and expectations of the Board, the Superintendent's annual salary for the term of this Contract shall be as follows: Eight-five Thousand Dollars (\$85,000) for the 2018-2019 Contract year, Eighty-six Thousand Five Hundred Dollars (\$86,500) for the 2019-2020 Contract year, and Eighty-Eight Thousand Dollars (\$88,000) for the 2020-2021 Contract year.

A. The Superintendent's annual salary shall be in twenty-six (26) equal bi-weekly installments during the applicable twelve (12) month period of July 1 - June 30.

B. The Superintendent's contractual salary constitutes the total compensation to be paid to the Superintendent for his professional services, regardless of the hours of service required to perform the job, and no overtime or additional compensation will be paid for such services except as otherwise specifically provided in this Contract.

C. If the Superintendent receives wages under this Contract and leaves the District's employment, the Superintendent agrees to reimburse the District for all wages received for which no work was performed, unless the parties otherwise mutually agree.

D. The Board retains the right to open the Contract on an annual basis to adjust the Superintendent's annual salary and other compensation during the term of this Contract. Any such adjustment shall not reduce the annual salary or other compensation below the amounts stated in this Contract unless otherwise mutually agreed by the Administrator.

E. Any adjustment in salary or other compensation made during the term of this Contract shall be in the form of a written amendment and, when executed by the Superintendent and the Board, shall become a part of this Contract. Unless expressly stated in writing, any such adjustment amendment for salary or other compensation shall not be considered a new Contract or an extension of the Contract termination date.

F. Consistent with Section 1250 of the Revised School Code, the Superintendent's job performance and job accomplishment will be significant factors in determining any adjustment to the Superintendent's compensation. See MCL 380.1250

6. Tax-Deferred Annuity. The Board shall contribute a maximum of One Thousand Five Hundred Dollars (\$1500) per Contract year as a matching contribution to a 457 annuity designated by the Superintendent from a list of eligible programs available through the District's 457 Plan. This Board-paid contribution shall be made during the Contract year on an annual basis at the end of the contract year on June 30 and shall conform to the requirements of Internal Revenue Code Section 457. The matching contribution will be suspended while the Longevity Incentive is active (see 7). Commencing the Superintendent's Sixteenth (16) year with the district the Tax-Deferred Annuity will commence at the same previous rate of One Thousand Five Hundred Dollars (\$1500).

7. Longevity Incentive. The Board shall contribute Four Thousand Dollars (\$4000) per year in years Eleven (11), Twelve (12), Thirteen (13), Fourteen (14) and Fifteen (15) into an established 457 as designated by the Superintendent. This Board non-elective contribution shall be made in two (2) equal payments on July 1 and January 1 of the Contract year on a semi-annual basis as long as the Superintendent remains under contract with the Board and shall conform to the requirements of Internal Revenue Code Section 457. This Incentive will count years of service beginning on July 1, 2018.

8. Travel Expenses. Consistent with Board Policy, the Board will reimburse the Superintendent for all reasonable and necessary business-related expenses resulting from the performance of his duties as Superintendent, including travel, meals, and lodging in accordance with the District's per diem expense and reimbursement procedures. Any expense to be incurred for out-of-District travel shall be submitted for review and prior approval by the Board or its designee. The Superintendent shall present an itemized account of these expenses in the manner determined by the Board.

9. Technology Stipend. The Superintendent shall receive a monthly stipend of Fifty Dollars (\$50) for the Superintendent's technology expenses.

10. Professional Development. The Superintendent may attend appropriate educational training approved in advance by the Board or its designee. The Superintendent's time away from the District and his administrative responsibilities shall be limited and reasonable as determined by the Board.

11. Education Reimbursement. The District will reimburse the Superintendent up to Five Hundred Dollars (\$500) per Contract year for all reasonable and necessary expenses incurred for successful completion of the Superintendent's professional development. Unused funds shall carry over to ensuing Contract year up to a maximum of One Thousand Dollars (\$1000).

12. Professional Dues. The District will pay the Superintendent's dues for full membership in the American Association of School Administrators (AASA), the Michigan Association of School Administrators (MASA), and the MASA Region. The Superintendent's membership dues in other professional organizations shall be paid upon Board approval.

13. Outside Activities. The Superintendent may undertake non-District related activities (e.g., consultation work, speaking engagements, teaching, writings, lectures) provided prior approval is received from the Board. If the Superintendent receives compensation for such activities, he shall use vacation time to cover his absence from District work. If the Board, in its sole discretion, determines that any such activity interferes with the Superintendents satisfactory performance of his duties, the Board may direct the superintendent to stop his participation in some or all of those outside activities.

14. Insurance Programs. Upon proper application and acceptance for enrollment by the appropriate insurance underwriter, policyholder, or third-party administrator, the Board shall make premium payments on behalf of the Superintendent and his eligible dependents for the following insurance programs, subject to possible modification as stated in 15 below.

A. Subject to Paragraph B., the Board shall pay the premiums for the same medical, dental, vision, and long-term disability insurance for the Superintendent on the same basis as premiums paid to full-time teachers employed by the Board during the term of this Contract.

B. The Board's contribution toward the premium for health insurance and prescription drug coverage shall not exceed the statutory limit necessary to comply with the Publicly Funded Health Insurance Contribution Act, MCL 15.561 et esq. Any premium amount exceeding the statutory limitation shall be payroll-deducted from the Superintendent's compensation.

C. If the Superintendent voluntarily and in writing opts out of the health insurance coverage and provides appropriate documentation that he has other health coverage that meets the minimum value and coverage requirements of the Affordable Care Act, the Superintendent will receive Six Hundred and Fifty Dollars (\$650) per month.

15. Insurance Contracts. The Board reserves the right to change the identity of the insurance carrier, policyholder, or third-party administrator for any of the coverage for the plans and programs identified in 14, if comparable coverage (as determined by the Board) is maintained during the term of this Contract.

A. The Board is not required to remit premiums for any insurance coverage for the Superintendent and his eligible dependents if the insurance underwriter, policyholder, or third-party administrator denies enrollment of coverage

B. The terms of any contract or policy issued by any insurance company or third-party administrator shall be controlling as to all matters concerning benefits, eligibility, coverage, termination of coverage, and other related matters.

C. The Superintendent is responsible for ensuring the completion of all forms and documents needed to receive the above-described insurance coverage.

D. The Board, by remitting the premium payments required to provide the above-described insurance coverage(s), shall be relieved from all liability as to insurance benefits.

16. Holidays. Consistent with the District's calendar, the Superintendent is entitled to the following holidays for which no service to the District is required: New Year's Day, Good Friday, Easter Monday, Memorial Day, Independence Day, Labor Day, Thanksgiving and the day after Thanksgiving, Christmas Eve Day, and Christmas Day.

17. Paid Time Off. The superintendent is employed on the basis of fifty-two (52) weeks of work per Contract year (July 1 - June 30), as scheduled by the Board. In addition to the holidays recognized by the District and identified in 16 above, the Superintendent shall receive 30 days of paid time off for each Contract year, to be used for the purposes of sick leave, personal business leave, or vacation. Any unused sick leave from the Superintendent's previous contract as the District's principal (expiring June 30, 2018) will carry over to this Contract.

A. The Superintendent shall schedule use of vacation and personal leave days in a manner to minimize interference with the District's business and orderly operation

B. The Superintendent may carry over up to fourteen (14) paid time off days to the next year

C. The total amount of accumulated paid time off shall not exceed one hundred eighty (180) days.

D. Unused paid time off will be paid at the rate of One Hundred Dollars (\$100) per day upon the Superintendent's retirement from the Dessemmer Area School District. If the Superintendent separates from the District for any reason other than retirement, the unused paid time off shall be at the rate of Fifty Dollars (\$50) per day upon separation.

18. Bereavement Leave. The Superintendent shall receive five (5) work days for funeral leave not to be deducted from paid time off for a death in the Superintendent's family.

19. Disability Leave. In the event of the Superintendent's mental or physical incapacity to perform his duties, he shall be granted an initial leave of ninety (90) work days for purpose of recovery. The Superintendent shall first exhaust any accumulated personal leave and accrued vacation time, with the balance of the ninety (90) work-day period to be paid. Health plan premium payments shall be made on behalf of the Superintendent during this interval to the

extent required by law. Upon using leave under this provision, the Superintendent shall furnish medical certification to the Board (or its designee) as to the necessity for the leave.

A. If the board (or designee) has reason to doubt the validity of the medical certification supplied by the Superintendent, a second opinion may be requested, at Board expense.

B. The Superintendent may request a ninety (90) work-day unpaid leave extension in the event of his physical or mental inability to return to work at the expiration of the initial leave interval, as described above, provided that there is a verified prognosis that the Superintendent will be able to resume his duties at the end of the extended leave interval. Medical certification shall be supplied by the Superintendent as a condition to any leave extension. Any leave extension for this purpose shall be at the Board's discretion.

C. If the Superintendent is unable to or does not resume work at the conclusion of a leave taken under this paragraph (or any leave extension), his employment and this Contract may be terminated at the Board's option. However, no such termination shall occur when restoration after leave is required by the Family and Medical Leave Act.

D. Before any resumption of duty after a paid or unpaid leave of absence for a serious health condition, the Superintendent shall provide to the Board a fitness-for-duty certification from the Superintendent's health care provider. A second opinion may be required by the Board, at its expense, unless the securing of the second opinion is precluded by the Family and Medical Leave Act.

20. Medical Examination. The Superintendent shall submit to such medical examinations (including drug or alcohol tests), supply such information, and execute such documents as may be required by any underwriter, policyholder, or third-party administrator providing insurance programs specified under this Contract.

21. Performance Evaluation. The Superintendent's performance shall be evaluated by the Board, at least twice annually. An initial review shall be completed by October 15 of each Contract year and a final review by February 15 of each Contract year. This evaluation process shall comply with Section 1249b of the Revised School Code (or its successor provision), using multiple rating categories that take into account student growth data as a significant factor. See MCL 380.1249b.

22. Assignment. The Superintendent is subject to assignment and transfer to another administrative position of employment with the District at the Board's discretion. In the event of such assignment/transfer, the Superintendent's salary and other benefits shall be those as stated in this Contract, or as such other terms that may be mutually agreed by the Superintendent and the Board.

23. Tenure Exclusion. The Superintendent is not deemed to have been granted tenure in the administrative position initially assigned or to which he may be assigned or transferred or in any capacity other than that of a classroom teacher pursuant to the Michigan Teachers' Tenure Act.

24. Resignation Notice. The Superintendent shall provide a minimum of ninety (90) days written notice of resignation to the Board, unless otherwise agreed to by the Board.

25. Nonrenewal. The Board's decision to discontinue or non-renew the Superintendent's employment for any subsequent period in any capacity (other than as a classroom teacher as may be required by the Michigan Teachers' Tenure Act), shall not be deemed a breach of this Contract or a discharge of emotion pursuant to the Michigan Teachers' Tenure Act.

26. Termination. The Board is entitled to terminate the Superintendent's employment at any time during the term of this Contract when the Board determines that the Superintendent has engaged in any act of moral turpitude, misconduct, dishonesty, fraud, insubordination, incompetency, inefficiency, or if the Superintendent materially breaches the terms and conditions of this Contract, or for any other basis that constitutes just cause.

A. The foregoing standard for termination of this Contract during its term does not apply to non renewal of this Contract at the expiration of its term, which decision is discretionary with the Board and is governed by Section 1229 fo the Revised School Code, MCL 380.1229.

B. If the Board undertakes to dismiss the Superintendent during the term of this Contract, he shall be entitled to written notice of charges and an opportunity for a fair hearing before the Board no sooner than ten (10) days after written notice of the charges. This hearing shall be public or private at the Superintendent's option. The Superintendent may have legal counsel attend this hearing, at the Superintendent's expense.

C. If the Board terminates the Superintendent's employment during the term of this Contract, the Contract shall automatically terminate and the Board shall have no further contractual obligation to the Superintendent.

27. Arbitration. If a dispute relating to the Superintendent's Contract arising from any provision of this Agreement, the parties agree to submit such dispute to binding arbitration. Selection of the arbitrator and the arbitration proceedings shall be conducted under the National Rues for the Resolution of Employment Disputes of , and administered by, the American ARbitration Association, and shall comply with the Michigan Uniform ARbitration Act, MCL 691.1681 et seq.

A. The parties intend that this process of dispute resolution shall include all contract and statutory claims advanced by the Superintendent arising from any provision of this agreement during the term of this Contract, including (but not limited to) claims of unlawful discrimination and all claims for damages or other relief. However, this agreement to arbitrate does not restrict the Superintendent from filing a claim or charge with any state or federal agency (such as the Equal Employment Opportunity Commission or the Michigan Department of Civil Rights), and does not apply to any claims for unemployment compensation or workers' compensation which may be brought by the Superintendent. Instead, this agreement to arbitrate claims applies to those matters which would otherwise be subject to state or federal court proceedings.

B. This agreement to arbitrate means that the Superintendent is waiving his right to adjudicate discrimination claims in a judicial forum and is instead opting to arbitrate those claims. In any such arbitration proceeding, the Superintendent has the right to representation by counsel of his choice, the right to appointment of a neutral arbitrator, the right to reasonable discovery, and the right to a fair hearing. However, the Superintendent, through this agreement to arbitrate such claims, does not waive any statutory rights or remedies in the context of such arbitration proceedings.

C. The arbitrator's fee and the costs imposed by the American Arbitration Association shall be shared equally by the Board and the Superintendent, subject to the Superintendent's right to seek to tax such fees as costs against the Board.

D. Any claim for arbitration under this provision must be filed with the American Arbitration Association, in writing, and served on the Board within ninety (90) days of the effective date of the Superintendent's termination during the term of this Contract. The arbitrator's Decision and Award shall be final and binding and judgment thereon may be entered in the Gogebic County Circuit Court.

27. Limitations. The Superintendent agrees that any claim or suit arising out of his employment with the Board must be filed no more than six (6) months after the date of the employment action that is the subject of the claim or suit. The Superintendent understands that the statute of limitations for claims arising out of an employment action may be longer than six (6) months, but agrees to be bound by the six (6) month period of limitations set forth in this Contract and expressly waives any statute of limitations to the contrary. Should a court of competent jurisdiction determine that this provision allows an unreasonably short period of time to commence a lawsuit, it is the parties' intent that the court will enforce this provision to the extent possible and declare the lawsuit barred unless it was brought within the minimum reasonable time within which the suit should have been commenced.

28. Entire Agreement. This Contract contains the entire agreement and understanding between the Board and the Superintendent about the Superintendent's employment. Prior or

concurrent representations, promises, contracts, or understandings (written or oral) not contained in this Contract have no effect.

A. Any prior agreement (written or oral) pertaining to the terms of this Contract is cancelled and superseded by this Contract Provided, however, that this Contract is voidable under the Revised School Code provisions pertaining to criminal history and records checks.

B. No Change or modification of this Contract shall be valid or binding unless it is in writing, approved by official action of the Board as reflected in its minutes, and signed by the Superintendent and the President and Secretary of the Board.

C. No valid waiver of any provision of this Contract, at any time, shall be deemed a waiver of any other provisions of this Contract at such time or at any other time.

29. **Voidability.** Whenever possible, this Contract shall be interpreted in a manner to be effective and valid according to Michigan law. If any provision of this Contract becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable, or void, this Contract shall continue in full force and effect without said provisions(s).

30. **Governing Law.** This Contract is governed by and shall be interpreted in accord with the laws of the State of Michigan.

31. **Jurisdiction/Venue.** The proper jurisdiction and venue for any action to enforce this Contract or interpret its terms is the Gogebic County Circuit Court, State of Michigan (except as the parties have otherwise agreed to arbitration in 27).

32. **Authorization.** This Contract is executed on behalf of the District pursuant to the authority contained in the Board resolution adopted on April 23rd, 2018, the same being incorporated herein by reference.

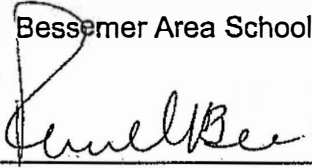
Dated: April 23, 2018

By: 

Dave Wineburner, Superintendent

Bessemer Area School District Board of Education

Dated: April __, 2018

By: 

Robert Berg
President, Board of Education

Dated: April __, 2018

By: 

Beth Steiger
Secretary, Board of Education