
Superintendent Term Contract

This Superintendent Term Contract ("Contract") is entered into between the Board of Trustees (the "Board") of WHARTON INDEPENDENT SCHOOL DISTRICT (the "District") and Dr. Michael O'Guin, Sr. (the "Superintendent").

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

1. **Term.** The Board agrees to employ the Superintendent on a twelve-month basis per school year, beginning July 1, 2022, and ending June 30, 2025. The Board and the Superintendent (the "Parties") may extend the term of this Contract by agreement.
2. **Certification.** The Superintendent agrees to maintain the required certification throughout the term of employment with the District. If the Superintendent's certification expires, is cancelled, or is revoked, this Contract is void.
3. **Representations.** The Superintendent makes the following representations:
 - 3.1 **Beginning of Contract:** At the beginning of this Contract, and at any time during this Contract, the Superintendent specifically agrees to submit to a review of his or her national criminal history record information (NCHRI) if required by the District, TEA, or SBEC the superintendent understand that a criminal history record acceptable to the Board, at its sole discretion, is a condition precedent to this Contract.
 - 3.2 **During Contract:** The Superintendent also agrees that, during the term of this Contract, the Superintendent will notify the Board in writing of any arrest or of any indictment, conviction, no contest or guilty plea, or other adjudication of the Superintendent excluding Class C misdemeanor traffic offenses. The superintendent agrees to provide such notification in writing within seven calendar days of the event.
 - 3.3 **False Statements and Misrepresentations:** The Superintendent represents that any records or information provided in connection with his or her employment application are true and correct. Any false statements, misrepresentations, omissions of requested information, or fraud by the Superintendent in or concerning any required records or in the employment application may be grounds for termination or nonrenewal, as applicable.
4. **Employment.**
 - 4.1 **Duties.** The Superintendent shall be the educational leader and chief executive officer of the District. The Superintendent agrees to perform his or her duties as follows:

- 4.2 **Authority:** The Superintendent shall perform such duties and have such powers as may be prescribed by the law and lawfully prescribed by the Board. The Board shall have the right to assign additional duties to the Superintendent and to make changes in responsibilities or work at any time during the Contract term. All duties assigned by the Board shall be appropriate to and consistent with the professional role and responsibility of the Superintendent.
- 4.3 **Standard:** Except as otherwise permitted by this Contract, the Superintendent agrees to devote his full time and energy to the performance of his duties. The Superintendent shall perform his duties with reasonable care, skill, and diligence. The Superintendent shall comply with all lawful Board directives, state and federal laws and rules, Board policy, and regulations as they exist or may hereafter be amended.
- 4.4 **Reassignment.** The Superintendent is employed specifically and solely to perform the duties of Superintendent of Schools for the District and may not be reassigned from the position of Superintendent to any other position in the District except by mutual written agreement of the parties.
- 4.5 **Board Meetings.** The Superintendent shall attend all meetings of the Board, both public and closed, except for those closed meetings devoted to the consideration of any action or lack of action on the Superintendent's Contract, or the Superintendent's evaluation, or for purposes of resolving conflicts between individual Board members, or when the Board is acting in its capacity as a tribunal. Further, the Superintendent shall provide recommendation(s) and/or information as to each of the items of business considered at each meeting as needed or requested by the Board.
- 4.6 **Criticisms, Complaints, and Suggestions.** The Board, individually and collectively, shall refer in a timely manner all substantive criticisms, complaints, and suggestions called to the Board's attention to the Superintendent for review and appropriate action in accordance with Board Operating procedures.
5. **Compensation.** The District shall pay the Superintendent an annual salary as follows:
- 5.1 **Salary:** The District shall provide the Superintendent with an annual salary in the sum of One Hundred Eighty-Five Thousand Dollars (\$185,000.00) per year, which amount shall be automatically increased each year by an amount equal to the greater of (i) the highest percentage raise given to the District's teachers or (ii) a percentage mutually agreeable to the Board and the Superintendent. The annual salary shall be paid to the Superintendent in equal monthly installments consistent with the Board's policies. Subject to and without waiving any Constitutional and/or other challenges by the Superintendent, the Superintendent acknowledges that the District may have certain rights pursuant to Education Code Sections 21.4021 and/or 21.4032.

expense to the District other than reimbursement to the Superintendent for his/her documented reasonable and necessary out-of-pocket expenses, plus reimbursement of any salary lost by the Superintendent by virtue of taking time off from his/her then current employment to assist the District at its request. If the Superintendent is not employed at the time, the District shall compensate the Superintendent at a mutually agreeable rate. Requests for assistance from the Superintendent with respect to such matters shall be made through the Board of Trustees' President, any successor superintendent, and/or legal counsel for the District, and the amount to be reimbursed to the Superintendent shall be mutually agreed upon in advance.

- 5.5 ***Civic Activities:*** The Superintendent is encouraged to participate in community and civic affairs. This provision is subject to the budget and must be approved annually. The Superintendent may hold offices or accept responsibilities in these professional organizations, provided that such responsibilities do not interfere with the performance of his duties as Superintendent. Prior to engaging in these activities, the Superintendent will notify the Board in writing of the activity. The Board will notify the Superintendent if the activity presents a conflict or interferes with the performance of his duties as Superintendent. The District shall reimburse the Superintendent for the cost of membership in all local civic organizations in which the Superintendent participates and related travel outside of the District, subject to advance Board approval.
- 5.6 ***Professional Organizations:*** The Superintendent shall devote the Superintendent's time, attention, and energy to the direction, administration, and supervision of the District. The Board, however, encourages the continued professional growth of the Superintendent through the Superintendent's active attendance and participation in appropriate professional meetings, seminars, conferences, or courses at the local, regional, state, and national level. In its encouragement of the Superintendent to grow professionally, the Board shall permit a reasonable amount of release time for the Superintendent as the Superintendent and the Board deem appropriate, to attend such meetings, seminars, conferences, or courses. The District does hereby agree to provide in the District's budget per contract year an amount to be used for registration, travel, meals, lodging, and other related expenses. The District shall pay for the Superintendent's membership dues to the Texas Association of School Administrators and one other professional organization selected by the Superintendent. The District shall bear the reasonable cost and expense for registration, travel, meals, lodging, and other related expenses for such attendance and membership.
- 5.7 ***Expenses.*** The District shall pay or reimburse the Superintendent for reasonable expenses incurred by the Superintendent in the continuing performance of the Superintendent's duties under this Contract. The District agrees to pay the actual

- 5.2 **Benefits:** In addition to the benefits expressly set forth herein, the District shall provide other benefits to the Superintendent as provided by state law and Board policies. The Board reserves the right to amend its policies at any time during the term of this Contract to reduce or increase the benefits not expressly provided herein, at the Board's sole discretion. The District shall pay the same amount toward the premiums for the Superintendent's health insurance coverage that the District contributes for other 12-month employees if the Superintendent elects coverage.
- 5.3 **Vacation, Holiday, and Personal Leave.** As with other 12-month professional employees of the District, the Superintendent may take as vacation, at the Superintendent's choice, the greater of (i) ten (10) days of vacation annually or (ii) the same number of annual vacation/non-duty days provided to administrators on 12-month contracts, the days to be in a single period or at different times. The vacation days taken by the Superintendent will be taken at such time or times as will least interfere with the performance of the Superintendent's duties as set forth in this contract. Unused vacation days do not accumulate or carry forward from year to year. The Superintendent shall notify Board president of scheduled vacation/leave days. At retirement, or when the Contract is terminated, either voluntarily or involuntarily, the District shall pay in a lump sum to the Superintendent any accrued but unused vacation days at the Superintendent's daily rate of pay as of the payment date. The daily rate shall be calculated by dividing the Superintendent's TRS creditable compensation by 226 ("Daily Rate"). The Superintendent shall observe the same legal holidays as provided by Board policies for administrative employees on twelve-month contracts. The Superintendent is hereby granted the same personal leave benefits as authorized by Board policies for administrative employees on twelve-month contracts, the days to be in a single period or at different times.
- 5.4 **Liability Insurance:** The District's Professional Liability insurance policy provides coverage for the Superintendent, as set forth in the policy, and this policy or one with sufficient coverage will be kept in full force and effect during the term of this Contract and shall be maintained for a sufficient period following termination to provide coverage for claims raised after the term of the Contract but which arose from acts during the Contract term. The Superintendent shall fully cooperate with the District in defense of any and all claims, demands, suits, actions and legal proceeding brought against brought against the District, during the term of this Contract. After termination of this Contract, the Superintendent agrees to provide assistance to and cooperate with the District, its Board, Trustees, agents, and attorneys in response to, or in defense of, any demand, claim, complaint, suit, action or legal proceeding brought against the District, Board, its Trustees, or agents, arising from any acts or events alleged to have occurred during the term of the Superintendent's employment with the District, at no additional

and incidental costs incurred by the Superintendent for travel outside of the District. Such actual or incidental costs may include, but are not limited to, gasoline, hotels and accommodations, meals, rental car, and other expenses incurred in the performance of the business of the District. The Superintendent shall comply with all procedures and documentation requirements in accordance with Board policies.

5.8 **Technology.** The Superintendent understands that information stored in his cell phone, computer or other device is subject to public disclosure if such information is related to the public business of the School District or to his duties as Superintendent. Notwithstanding the location of personal data on the cell phone, computer or other device, whether owned by the District or Superintendent, the parties agree that any personal or private information of the Superintendent contained on the cell phone, computer or other devices containing such data or information shall be deemed private and the Superintendent's sole property; provided it shall be the responsibility of the Superintendent to assert, and to bear any costs of asserting, privacy or other confidentiality privileges or rights as to any such data or information. Personal use of district equipment shall be consistent with District Policy.

5.9 **Texas Teacher Retirement System.** For performance of Superintendent duties, the District shall supplement the Superintendent's salary by an amount equal to the Superintendent's portion of the member contribution to the Texas Teacher Retirement System ("TRS") during the Term of this Contract, including any extensions thereof. This supplement shall include both the retirement and TRS-Care parts of the TRS member contribution, as applicable. This additional salary supplement for services rendered shall be paid to the Superintendent in regular monthly payroll installments and shall be reported as "creditable compensation" by the District for purposes of TRS, to the extent permitted by TRS.

6. **Development of Goals and Review of Performance.**

6.1 **Development of Goals.** The Board shall work collaboratively with the Superintendent each year to prepare a list of goals for the District. The ultimate content and approval of the list of goals shall be at the sole discretion of the Board. The goals approved by the Board shall at all times be reduced to writing ("District Goals") and shall be among the criteria on which the Superintendent's performance is reviewed and evaluated. The District Goals approved by the Board shall be specific, definitive and objectively measurable, to the extent feasible. The Board agrees to work with and support the Superintendent in achieving the District Goals.

6.2 **Time and Basis of Evaluation.** The Board shall evaluate and assess in writing the performance of the Superintendent at least once each year during the term of this Contract. The Board's evaluation and assessment of the Superintendent shall be

reasonably related to the duties of the Superintendent as outlined in the Superintendent's job description and shall be based on the District's progress towards accomplishing the District Goals.

6.3 Confidentiality. Unless the Superintendent expressly requests otherwise in writing, the evaluation of the Superintendent shall, always, be conducted in executive session and shall be considered confidential to the extent permitted by law. Nothing herein shall prohibit the Board or the Superintendent from sharing the content of the Superintendent's evaluation with their respective legal counsel.

6.4 Evaluation Format and Procedures. The evaluation format and procedure shall be in accordance with the Board's policies and state and federal law. A copy of the written evaluation shall be delivered to the Superintendent. The Superintendent shall have the right to make a written response to the evaluation within thirty (30) days of receipt of the written evaluation from the Board. That response shall become a permanent attachment to the evaluation in the Superintendent's personnel file. If the Board deems that the evaluation instrument, format, and/or procedure is to be modified by the Board and such modifications would require new or different performance expectations, such modifications must be adopted with input from the Superintendent and the Superintendent shall be provided a reasonable period to demonstrate such expected performance before being evaluated.

7. Suspension /Termination and Nonrenewal of Contract.

7.1 Suspension. In accordance with Texas Education Code chapter 21, the Board may suspend the Superintendent without pay during the term of this Contract for good cause as determined by the Board.

7.2 Termination and Nonrenewal. Termination or nonrenewal of this Contract, or resignation under this Contract, will be pursuant to Texas Education Code chapter 21. The Board may dismiss the Superintendent during the term of the Contract for good cause. In the event the Board terminates this Contract for "good cause," the Superintendent shall be afforded all the rights as set forth in the Board's policies and state and federal law.

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

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

7.5 Resignation of Superintendent. The Superintendent may leave the employment of the District at the end of a school year without penalty by filing a written resignation with the Board. The resignation must be addressed to the Board and filed not later than

the 45th day before the first day of instruction of the following year. The Superintendent may resign with the consent of the Board at any other time.

8. **General Provisions.**

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

8.2 **Severability:** If any provision in this Contract is, for any reason, held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provision of the Contract. This Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been a part of the Contract.

8.3 **Entire Agreement:** All existing agreements and contracts, both verbal and written, between the Parties regarding the employment of the Superintendent for a term covered by this Contract are superseded by this Contract. This Contract constitutes the entire agreement between the Parties.

8.4 **Applicable Law and Venue:** Texas law shall govern construction of this Contract. The Parties agree that venue for any litigation relating to the Superintendent's employment with the District, including this Contract, shall be the county in which the District's administration building is located. If litigation is brought in federal court, the Parties agree that venue shall be the federal district and division in which the district's administration building is located.

8.5 **Paragraph Headings:** The headings used at the beginning of each numbered paragraph in this Contract are not intended to have any legal effect; the headings do not limit or expand the meaning of the paragraphs that follow them.

8.6 **Legal Representation:** Both Parties have been represented by legal counsel of their choice or have had the opportunity to consult with legal counsel, in the negotiation and execution of this Contract.

8.7 **Conflicts.** In the event of any conflict between the terms, conditions, and provisions of this Contract and the provisions of the Board's policies, or any permissive state or federal law, then, unless otherwise prohibited by law, the terms of this Contract shall take precedence over the contrary provisions of the Board's policies or any such permissive law during the term of the Contract.

9. **Notices.**

9.1 **To Superintendent:** The Superintendent agrees to keep a current address on file with the District's human resources office and the Board President. The Superintendent agrees that the Board may meet any legal obligation it has to give

the Superintendent written notice regarding this Contract or the Superintendent's employment by hand-delivery, or by certified mail, regular mail, and/or express delivery service to the Superintendent's address of record.

9.2 **To Board:** The Board agrees that the Superintendent may meet any legal obligation to give the Board written notice regarding this Contract or the Superintendent's employment by providing one copy of the notice to the President of the Board and one copy to the Vice President of the Board. The Superintendent may provide such notices by hand-delivery, or by certified mail, regular mail, and/or express delivery service, to the Board President and Vice President's addresses of record, as provided to the District.

10. **Authority.** The Board President has been authorized to execute this Contract on behalf of the District by action of a majority of a quorum of the Trustees present at a properly called and posted meeting on June 28, 2022.

IN WITNESS WHEREOF, all the parties hereto have executed the Contract in multiple originals to be effective from and after July 1, 2022.

WHARTON INDEPENDENT SCHOOL DISTRICT

By: Curtis W. Evans
Curtis W. Evans, President, Board of Trustees

ATTEST:

By: Fred Johnson
Fred Johnson, Secretary, Board of Trustees

Executed this 30th day of June, 2022.

SUPERINTENDENT

By: Michael O'Guin Sr
DR. MICHAEL O'GUIN

Executed this 30th day of June, 2022.