

## AGREEMENT

**THIS AGREEMENT**, made this 29th day of March, 2011, effective July 1, 2011, by and between the **BOARD OF EDUCATION OF THE CHAPPAQUA CENTRAL SCHOOL DISTRICT**, having its administrative offices at the Education Center, 66 Roaring Brook Road, Chappaqua, New York 10514 (hereinafter “the Board” or “District”), and **MARILYN McKAY**, residing at 204 Sandpiper Court, Yorktown Heights, New York 10598 (hereinafter “the Superintendent”).

### **WITNESSETH:**

**WHEREAS**, the Board desires to employ a Superintendent of Schools for its School District; and

**WHEREAS**, the Superintendent desires to enter into the employ of the Board as its Superintendent of Schools;

**NOW, THEREFORE**, in consideration of the promises and the mutual covenants herein contained, **IT IS AGREED** as follows:

1. **TERM**

The BOARD hereby agrees to employ the Superintendent and the Superintendent hereby agrees to work for the Board as Superintendent of Schools of the Chappaqua Central School District for a term to commence on July 1, 2011 and to end on June 30, 2014.

2. **EXTENSION OF AGREEMENT**

The parties will, not later than October 1, 2013 for the 2014-2015 school year, and October 1, 2014 for the 2015-2016 school year, notify each other, in writing, of their intention to renew or not to renew this Agreement. If either party fails to give such notice within the time

specified, this Agreement shall terminate on June 30<sup>th</sup> following the April 1 deadline for notification. Any extension of the term of the Superintendent's employment shall be in the form of an amendment to this Agreement. The Board shall take action upon an amendment agreement upon providing its written notice of its intent to review by July 1<sup>st</sup>

3. **DUTIES**

A. The Superintendent shall be the chief administrative officer of the District and shall have the power and obligation to perform all those duties and to accept all those responsibilities under the direction of the Board as are:

- a. set forth in Section 1711 of the Education Law of the State of New York, including any amendments thereof or successor statutes thereto;
- b. imposed or granted to a Superintendent of Schools under the provisions of the Education Law or other statute of the State of New York, or by rule or regulation of the Commissioner of Education;
- c. specified in the Policy Manual of the Board and in regulations promulgated pursuant thereto;
- d. normally associated with the position of Superintendent of Schools, including, but not limited to, budget formulation and administration, pupil course of study and curriculum, public relations, personnel management and labor relations;

B. The Board may, from time to time, prescribe additional or different duties and responsibilities for the Superintendent provided that all additional duties and responsibilities prescribed by the Board are consistent with those normally associated with the position of Superintendent of Schools in the State of New York.

C. The Superintendent shall advise the Board President of the need to utilize leave days, as set forth hereinbelow, as well as the scheduling of vacation periods.

D. The Superintendent shall be notified and shall have the right to attend all meetings of the Board, including executive sessions of the Board, except that the Board may exclude the Superintendent from any portion of a meeting during which they are discussing her performance or salary.

E. The Board, individually and collectively, shall promptly and discretely refer to the Superintendent, in writing, for her study and recommendation, any and all significant criticisms, complaints, suggestions, communications or comments regarding the administration of the District of the Superintendent's performance of her duties. The Superintendent shall promptly and discretely respond to such criticisms, complaints, concerns and communications.

4. **EXTENT OF SERVICE**

During the term of this Agreement, the Superintendent shall devote her full time, skills, labor, attention and best efforts to the performance and discharge of her duties and responsibilities. The Superintendent shall not engage in outside consultative or other professional activities without approval of the Board in advance of such activities.

5. **PROFESSIONAL AND MEDICAL CERTIFICATIONS**

- a. **Professional Certification.** At the commencement of employment, the Superintendent shall furnish and possess throughout the life of this Agreement a valid and permanent certificate to serve as Superintendent of Schools in New York State.
- b. **Medical Certification.** As a condition of employment, the Superintendent shall submit to a comprehensive medical examination and provide a physician's statement certifying to the Superintendent's physical and mental competency to perform the duties and exercise the powers of her position. Such statement shall be presented to the District Clerk upon initial employment and shall be kept

confidential. The portion of the cost of such medical examination which is not covered by the Superintendent's health insurance plan shall be paid for by the Board.

6. **COMPENSATION**

The Superintendent shall be paid a salary at the annual rate of Two Hundred Forty Thousand (\$240,000.00) Dollars for the period from July 1, 2011 through June 30, 2012, to be paid in equal installments in accordance with the rules of the Board governing salary payment to other administrative staff members in the District. The Superintendent's compensation for each subsequent twelve (12) month period of employment shall be determined by the Board in conjunction with its annual evaluation of the Superintendent no later than June 15<sup>th</sup> in each year; provided, however, that in no event shall the Superintendent's base salary for any twelve (12) month period of employment be less than the amount of base salary received during the preceding twelve (12) month period. The Superintendent is also eligible for a merit increase which shall be determined and allocated by the Board of Education on or before June 30, of each year at a percentage of her annual base salary for the preceding school year. Any adjustment in salary made during the term of this Agreement shall be in the form of an amendment and shall become a part of this Agreement.

7. **VACATION AND OTHER EXPENSES**

A. The Superintendent shall be entitled to twenty-five (25) days of vacation with pay per year available during times when school is not normally scheduled to be in session; provided however that the Superintendent shall be entitled to five mid-year recess days of time-off with pay in addition to the vacation entitlement referenced herein. An exception to this condition, due to unique circumstances, would be subject to the prior approval of the Board. The Superintendent shall retain any sick leave or vacation leave currently accrued at the time of the execution of this agreement. In addition, up to five (5) unused vacation days from a pervious

year may be carried forward for use during the subsequent year and, if not used, may be accumulated for liquidation into cash upon termination of employment at the per diem rate of 1/240th of annual salary; provided that no more than 40 accumulated days may be converted into cash. The Superintendent's accumulated vacation days from her prior employment in the District shall be credited for the purposes of liquidating days upon her termination from employment. No vacation days of the current year's vacation allotment at the time of separation shall be eligible for conversion into cash.

- B. The Superintendent shall receive the following benefits:
  - a. **Health Insurance.** The Board shall pay 80% of the premium for individual and dependents in the Northern Westchester-Putnam Schools Consortium. The Superintendent shall pay 20% of the premium. The Superintendent shall be entitled to District funding of health insurance premium in retirement in the amount of 94% of the premium for individual and dependents in the Northern Westchester-Putnam Schools Consortium, inclusive of the Medicare B premium. In the event of the demise of the Superintendent while actively employed or during the time of retirement to the extent permitted by the District's health insurance plan, her spouse and dependents, if any, may continue health insurance coverage in said plan at no cost to the District. This paragraph shall survive the term and be enforceable after the termination of this Agreement.
  - b. **Joint Benefit Fund.** The Board will pay up to \$1,455.00 for the Superintendent to participate in the Joint Benefit Fund. Dental insurance, vision care, and \$50,000.00 term life insurance shall be paid out of this Fund.
  - c. **Sick Leave.** Each year, on the first day of employment, the Superintendent will be credited with eighteen (18) days of sick leave, which may be accumulated up to a maximum of 300 days. All of the Superintendent's accumulated sick leave days from her prior employment in the District shall be credited toward her accumulated sick leave.

- d. **Personal Leave.** Three (3) days per year for pressing personal business that must be conducted at a time in conflict with the workday.
- e. **Family Illness or Death In Immediate Family.** Five (5) days per year.
- f. **Holidays.** The Superintendent shall be entitled to those holidays set forth in the District's annual calendar. For the purpose of this provision, recess periods when school is not in session shall not be construed as holidays, except to the extent that legal holidays are specified in the calendar during such recess periods.
- g. **Employee Assistance Program.** A confidential referral program covering drug, alcohol and emotional issues.
- h. **Life Insurance.** The Board shall pay up to \$1,500.00 per year towards the cost of group term life insurance for the Superintendent.
- i. **Physical Examination.** Up to \$400.00 for the cost of an optional annual physical examination to the extent required by the limitations of the Superintendent's health insurance plan.
- j. **Long Term Disability Program.** The District will provide this benefit at no cost to the Superintendent.
- k. **Professional Conferences and Membership Dues.** The Superintendent, upon the prior approval of the Board, may attend appropriate professional meetings at the local, state and national levels with the expenses of such attendance and professional dues to be a District charge. Payment shall be made upon presentation of bills, receipts and expense reports following submission to the District's Internal Claims Auditor. The Superintendent is authorized to incur these expenses, up to the approved budgeted amount. Any items requiring expenditures beyond the budgeted amount shall require prior Board approval.

The District shall also pay for the Superintendent's membership in up to three (3) professional organizations of the Superintendent's choice.

1. **Automobile Allowance.** The Superintendent shall receive a payment of \$500.00 per month during the term of this Agreement as reimbursement for the use of her private automobile for District business.
  - m. **Other Expenses.** Within the budgetary appropriations, the District shall provide the Superintendent with a cell phone or equivalent, a fax machine and computer for her use at home. Such items shall be the property of the District and returned to the District upon termination of employment with the District. The use of such items will be subject to District policy.
8. Pursuant to New York State Education Law §211-c, the Superintendent shall fully cooperate with any distinguished educator appointed by the Commissioner of Education.

9. **DISABILITY**

If the Superintendent is unable to perform duties and responsibilities by reason of extended illness and/or disability, that continues for a period of more than six (6) months from the date she was first unable to perform services as required by this Agreement, then the Board may, at its option, consistent with the procedure set forth in this Section, terminate this Agreement, whereupon the respective duties, rights and obligations herein shall terminate and no additional compensation shall be due the Superintendent hereunder, except for any additional sick leave to which the Superintendent may be entitled and for any unused vacation days.

The Superintendent shall be deemed unable to perform the services required by this Agreement if her attending physician so determines or if a physician selected by the Board so determines. But if there is a disagreement between the physician selected by the Board and the Superintendent's physician, a third physician chosen by the two of them shall examine the

Superintendent and a determination that the Superintendent is unable to perform the services required by this Agreement shall be binding.

In the event of the death of the Superintendent prior to the expiration of this Agreement, this Agreement shall terminate immediately and the compensation herein provided shall be prorated to the date of her death. In addition, her estate shall be paid a sum equal to her then daily rate of pay for each day of unused vacation.

10. **CERTIFICATION**

The SUPERINTENDENT shall possess a valid permanent certificate to act as Superintendent of Schools in the State of New York during the term of his employment by the BOARD.

11. **EVALUATION**

The Board will annually review the performance of the Superintendent according to procedures developed by the Board in consultation with her, such procedures to be filed in the District Office and available for review by any individual by not later than August 1<sup>st</sup> of each year, as required by the Regulations of the Commissioner of Education. The Board will meet with the Superintendent by October 1<sup>st</sup> of each year of this Agreement to mutually establish goals and objectives by which her performance is to be measured and will meet with her no later than March 1<sup>st</sup> each year, in executive session, to assess her performance against such goals and objectives.

The Board shall produce the evaluation in writing in the form agreed upon by the parties by June 1<sup>st</sup> each year. The Superintendent shall be provided with a copy of the written evaluation, signed by the President on behalf of the Board.



The evaluation prepared pursuant to this paragraph shall be confidential and shall be kept so by the Board and individual Board members, except as required by law.

12. **INDEMNIFICATION**

The Board agrees that it shall defend, hold harmless and indemnify the Superintendent from any and all demands, claims, suits, actions and legal proceedings brought against the Superintendent in her individual capacity, or in her official capacity as agent and employee of the District, provided the incident arose while the Superintendent was acting within the scope of her employment and excluding a criminal prosecution or action or proceeding brought against her by the Board. Except that, in no case, will individual Board members be considered personally liable for indemnifying the Superintendent against such demands, claims, suits, actions and legal proceedings.

13. **DAMAGES**

In the event the Superintendent leaves the Chappaqua Central School District for other employment prior to the expiration of this Agreement and without the express written consent of the Board of Education, the Superintendent shall pay as damages for breach of this Agreement the direct costs actually incurred by the Board for the Superintendent's search, up to a maximum amount of \$20,000.00 during the first year of this Agreement, \$15,000.00 during the second year of this Agreement and \$10,000.00 during the third year of this Agreement; provided, however, that the District shall not be entitled to such damages in the event that the Superintendent gives the Board at least 120 days prior notice of resignation from employment or if the Board provides written notice to the Superintendent by April 1, 2014 of its intention not to renew this Agreement.

14. **TERMINATION FOR CAUSE**

The Superintendent shall be subject to discharge for good and just cause, provided that the Board of Education does not arbitrarily or capriciously call for her dismissal and pursuant to the following provisions:

- A. If charges are to be brought against the Superintendent the following rights will be afforded:
- a. No charge shall give rise to a disciplinary hearing unless a quorum of the Board of Education finds probable cause to convene such hearing, based upon written charges previously presented by the Board in a duly convened Executive Session.
  - b. All charges promulgated by the Board shall be in writing and in such detail as to allow the preparation of a meaningful defense and such written charges shall be received by the Superintendent, together with a written Notice of Hearing, not less than thirty (30) days prior to the date of the hearing.
  - c. The Superintendent shall be allowed counsel at her own expense at all stages of all proceedings.
  - d. The Superintendent shall be entitled to a hearing before a mutually agreed upon member of the American Arbitration Association Labor Arbitration Panel or from those listed hereunder, selected upon the basis of first availability if mutual agreement cannot be reached:
    1. Jeffrey Selchick
    2. Carol Wittenberg
    3. Bonnie Siber Weinstock

4. Sheila Cole
5. Arthur Riegel.

- e. The Hearing shall not be open to the public except at the Superintendent's option. The hearing officer shall make findings of fact and disciplinary recommendations, if any, for Board consideration. The same shall also be furnished to the Superintendent.
- f. The Superintendent and the Board may present and cross-examine witnesses at such disciplinary hearing.
- g. A typewritten transcript of any hearing will be furnished free of cost to the Superintendent.
- h. Any decision shall be by a majority of the members of the Board of Education and shall be supported by written findings sustaining the charges by a preponderance of the credible evidence or dismissing the charges.
- i. During any period of suspension, the Superintendent of Schools shall be entitled to receive full salary and benefits until such time as the Board reaches a final determination upon the recommendation of the hearing officer, unless the charges relate to lack of requisite certification.
- j. The Board's decision shall be subject to appeal in accordance with law.

15. **GOVERNING LAW**

This Agreement and all of its provisions shall be construed and interpreted in accordance with the laws of the State of New York.

16. **SEVERABILITY**

Should any provision, term, condition, paragraph, phrase or portion of this Agreement be held or found void or illegal, the balance of these provisions shall remain in full force and effect.

17. **PERFORMANCE**

The failure of either party at any time to require the performance by the other party of any of the terms, conditions, provisions or agreements set forth herein shall, in no way, affect the right thereafter to enforce the same, nor shall the waiver by either party of any breach of any of the terms, conditions, provisions or agreements be construed as a waiver of any succeeding or subsequent breach.

18. **AGREEMENT**

This Agreement contains all of the terms agreed upon by the parties with respect to the subject matter of this Agreement and supersedes, rescinds and terminates all prior agreements, arrangements and communications between the parties concerning such subject matter whether

oral or written. This Agreement constitutes the full and complete agreement of the parties and may not be altered, changed, added to, deleted from, or modified in any way except through the mutual consent of the parties in a written signed amendment to this Agreement.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be duly executed in their respective names on the day and year first above written.

**BOARD OF EDUCATION  
CHAPPAQUA CENTRAL SCHOOL DISTRICT**

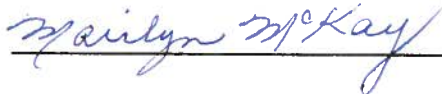
**BY:**



**JANET BENTON, PRESIDENT**

**THE SUPERINTENDENT OF SCHOOLS**

**BY:**



**MARILYN MCKAY**