

SOUTH BEND COMMUNITY SCHOOL CORPORATION

Employment Contract for Superintendent

This Contract made this ___ day of June, 2016 between the South Bend Community School Corporation, hereinafter called the "Corporation" and Kenneth Spells, Ed.D., hereinafter called the "Superintendent," WITNESSES:

WHEREAS, the Corporation is a community school corporation in St. Joseph County, Indiana, established pursuant to the Indiana School Corporation Reorganization Act of 1957, as amended; and

WHEREAS, the Corporation and Superintendent believe that a written employment contract is necessary to describe effective communications between them as they fulfill their governance and administrative functions in the operation of the education program of the Corporation.

NOW, THEREFORE, in consideration of the agreements hereinafter contained, the Corporation agrees to employ the Superintendent, and the Superintendent agrees to serve the Corporation in the capacity of the Superintendent of Schools of the South Bend Community School Corporation from the 1st day of July, 2016, to and including the 30th day of June, 2019. The Corporation may, by specific action and with the consent of the Superintendent, extend the termination date of the existing Contract to the full extent permitted by state law.

1. Duties. The Superintendent agrees faithfully to perform the duties of the Superintendent of Schools as set forth in the *Board of School Trustees – Superintendent Relationship and Responsibilities of the Superintendent* sections of the Policies and Bylaws of the South Bend Community School Corporation as adopted by the Board of School Trustees (the "Board"), which are attached hereto as Exhibits A and B respectively and which may be amended from time to time; to act as technical advisor to the Board of School Trustees of the Corporation and to ensure the Board is provided sufficient information regarding the Corporation's past practices, its policies, and any legal implications associated with items recommended for Board action; to keep the Board informed as to the operations of the Corporation; to administer the schools of the Corporation in accordance with the laws of the state of Indiana and the *Mission and Statement of Philosophy* sections of the Policies and Bylaws of the Corporation, which are attached hereto as Exhibits C and D respectively and which may be amended from time to time; and to administer, comply with, and faithfully and impartially enforce all Policies and Bylaws of the Corporation now or hereafter in force. The Superintendent's duties may be revised at any time at the sole discretion of the Board.

2. License. The Superintendent represents and warrants that he holds or will obtain a valid Indiana superintendent's license. The Superintendent shall maintain his license in good standing throughout the term of this Contract. Should the Superintendent's license be revoked or become invalid, this Contract shall automatically be terminated without further notice or hearing.

3. **Compensation.** The Corporation shall pay to the Superintendent the gross annual salary of One Hundred Ninety Thousand Dollars and No Cents (\$190,000.00), which will be paid to the Superintendent in equal installments in accordance with the Corporation's customary payroll dates and practices. The parties acknowledge and agree that all payments shall be reduced by all required payroll tax deductions and withholdings. Any increases to the Superintendent's annual salary shall be set forth in writing as an amendment to this Contract.

4. **Evaluation and Merit Pay.** The Board shall regularly evaluate the performance of the Superintendent. These evaluations may be conducted at six (6) month intervals, but under no circumstances will be conducted at an interval that exceeds twelve (12) months. The evaluation shall address the Superintendent's performance and working relationship with the Board based on the Corporation's goals, the Superintendent's progress on achieving such goals, the Superintendent's performance of the duties outlined in paragraph 1 of this Contract as well as any other performance criteria established by the Board and any other criteria mutually agreed upon by the parties. As part of this process, the Superintendent and the Board shall collaboratively develop direction for the Corporation and Superintendent. The Corporation will provide for the professional growth of the Superintendent through seminars, workshops, courses, and professional memberships, as agreed upon between the Board and Superintendent. The Superintendent may be eligible for a merit bonus based upon the results of the Superintendent's evaluation.

5. **Enrollment Incentive.** The Superintendent will receive a stipend in the amount of Five Thousand Dollars (\$5,000.00), less all applicable federal, state and local withholdings and deductions, if student enrollment increases by 200 students or more between the February 2017 and February 2018 ADM counts. The Superintendent will receive an additional stipend in the amount of Five Thousand Dollars (\$5,000.00), less all applicable federal, state and local withholdings and deductions, if student enrollment increases by 200 students or more between the February 2018 and February 2019 ADM counts.

6. **Fringe Benefits.** The parties further agree that the Superintendent, during the term of this Contract, shall receive all annual benefits approved by the Board for administrative personnel, except as expressly provided below, including but not limited to, medical insurance, dental insurance, vision insurance, annuity payments, disability insurance, family illness/sick days, leaves of absence, and personal leave, subject to applicable waiting periods, terms and conditions, and as amended from time to time. The Superintendent shall be responsible for paying the premiums associated with the above-referenced insurance policies. The Superintendent is responsible for any taxes incurred as a result of imputed income and/or reimbursement. To the extent Section 409A of the Internal Revenue Code may apply, the parties agree that the terms of this Contract shall be administered in accordance with the applicable requirements, and to the extent in conflict with such requirements, shall be deemed amended to comply with Section 409A and regulations issued thereunder.

- A. **Holidays:** The Superintendent shall receive the following ten (10) holidays as paid days: New Year's Day; Martin Luther King, Jr.'s Birthday; President's Day; Memorial Day; July 4th; Labor Day; Thanksgiving (and the day following); Christmas Eve; Christmas Day;

and New Year's Eve. If any of the above holidays fall on a weekend, a weekday shall be considered the paid holiday for the purposes of this provision.

- B. Vacation Days:** The Superintendent shall receive twenty (20) paid vacation days during each school year. No unused vacation days may be carried forward to the next school year and all unused vacation days shall be forfeited if not used before June 30 of each school year. The Superintendent shall notify the Board President of the dates during which he intends to be on vacation.
- C. Teacher Retirement Fund Contribution:** The Corporation shall make such contributions to the Teacher Retirement Fund as are required and provided for by law. Superintendent shall be responsible for his personal contribution to the Teacher Retirement Fund.
- D. Term Life Insurance:** The Superintendent shall receive the annual term life insurance benefits approved by the Board for the Superintendent (i.e., with a death benefit of Two Hundred Fifty Thousand Dollars and No Cents (\$250,000.00)) and shall be responsible for the premiums associated with this benefit.

7. **Retirement Package.** The Superintendent shall qualify for the following retirement benefits provided he meets the state Teacher Retirement Fund requirements:

- A. VEBA Contribution:** The Superintendent shall receive yearly contributions to a VEBA account in an amount provided to other similarly situated administrative personnel.
- B. Matching Annuity Plan:** The Superintendent may participate in the district's 401(a) and 403(b) plans.
- C. Employee 403(b) Contribution:** In addition to the compensation under paragraph 2 of this Contract, the Corporation shall, on behalf of the Superintendent as an employee elect deferral, annually deposit Ten Thousand Dollars (\$10,000) to the 403(b) plan maintained by the Corporation. Superintendent acknowledges and agrees that this contribution is considered part of his W-2 wages, that the amount will apply towards the employee deferral limit imposed by the Code, and that he will owe any applicable Medicare, Social Security and FICA/FUTA, on the contribution. This amount will be made in equal installments over the number of payroll periods in each year. Deposits under this Section shall cease when the Superintendent ceases to be eligible to contribute to the 403(b) Plan.

Nothing in this paragraph or elsewhere in this Contract is intended to constitute deferred compensation that would be subject to Section 409A of the Internal Revenue Code of 1986, as amended.

8. **Relocation Expenses.** The Corporation will reimburse the Superintendent for his relocation expenses up to a maximum amount of Two Thousand Five Hundred Dollars (\$2,500.00), upon production of receipts, provided the Superintendent establishes his residence within the boundaries of the South Bend Community School Corporation by July 1, 2016. The Superintendent shall be responsible for any income tax liabilities or obligations associated with such reimbursement.

9. **Severance.** The Corporation will pay the Superintendent severance pay and supplemental benefits upon retirement on the same basis as provided in the Administrator Severance Pay, Retirement and Supplemental Benefits manual, a copy of which is attached hereto and incorporated herein as Exhibit E, based on the Superintendent's years of service, with the exception that capped final salary restriction shall not apply. The Superintendent's final salary shall be used to calculate severance pay and supplemental benefits.

10. **Vehicle and Reimbursement for Out-of-Town Mileage.** The Corporation shall provide the Superintendent a car allowance in the amount of Five Hundred Dollars and No Cents (\$500.00), which shall be paid monthly by the Corporation to the Superintendent. The Superintendent acknowledges that this allowance will be reported as wages for social security, FICA, Medicare, federal and Indiana income tax purposes, and for contributions to the Indiana State Teachers' Retirement Fund. The Superintendent shall be reimbursed for mileage (at the rate established by the Board) incurred in the performance of his duties as Superintendent that require out-of-town travel.

11. **Reimbursement for Corporation-Related Expenses.** The Corporation further agrees to reimburse the Superintendent for all other expenses actually incurred by his in the service of, or for the benefit of, the Corporation. All such additional payments shall be made monthly or as filed on approved State Board of Accounts forms by the Superintendent, subject to the approval of the Board.

12. **Technology.** The Corporation shall provide to the Superintendent computer equipment which may be used for school related purposes at both the facilities of the Corporation and at the residence of the Superintendent. In addition, the Corporation shall provide to the Superintendent a cell phone to be used for school related purposes.

13. **Outside Activities.** Except as otherwise provided herein, the Superintendent shall direct his full time, attention, and energy to the business of the Corporation. However, subject to prior approval of the Board, he may undertake consulting, lecturing, or writing engagements that will not affect his duties to the Corporation and which are a short-term duration. Any honoraria paid to the Superintendent in connection with these activities shall be transferred to the Corporation. In such case, the Corporation will be responsible for any expenses attendant to the performance of such outside activities. If the Superintendent chooses to use vacation leave to perform outside activities, he shall retain any honoraria paid. In such

case, the Corporation will not be responsible for any expenses attendant to such outside activities.

14. **Professional Liability.** The Corporation 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 his individual capacity or in his official capacity as agent and employee of the Corporation, provided the incident arose while he was acting within the scope of his employment and excluding criminal charges or litigation, and that such liability coverage is within the authority of the Board to provide under state law. In no case will individual Board members be considered personally liable for indemnifying the Superintendent against such demands, claims, actions and legal proceedings.

15. **Renewal of Employment Contract.** This Contract shall be renewed or nonrenewed in accordance with the timelines and notice procedures set forth in Ind. Code 20-28-8-7 and the *Non-Reemployment of the Superintendent* section of the Policies and Bylaws of the Corporation, both of which may be amended, revised, or repealed from time to time.

16. **Termination by Mutual Consent.** This Contract may be terminated by mutual consent of the parties.

17. **Termination for Cause.** It is further agreed by the parties that this Contract may be terminated during its term for any of the grounds set forth in Ind. Code 20-28-8-7 and pursuant to the procedures set forth in Ind. Code 20-28-8-7. Revocation of license by the Indiana Department of Education shall be deemed to constitute grounds for immediate termination of this Contract.

18. **Severability.** If during the term of this Contract it is found that a specific clause of the Contract is illegal under federal or state law, the remainder of the Contract not affected by such a ruling shall remain in force.

19. **Entire Contract of Parties.** The parties agree that each has had the availability and/or assistance of counsel in the process of negotiating the terms of this Contract and sufficient time to consider and understand the terms of this Contract and that this Contract therefore contains all the agreed terms of employment of the Superintendent by the Board. This Contract will not be modified except in writing by making specific reference to the provision or provisions to be modified. Modifications to this Contract shall be approved by both parties in the same manner that this Contract was approved.

* * * * *

Draft

IN WITNESS WHEREOF, the South Bend Community School Corporation has caused this Contract to be executed by Jay Caponigro, President of its Board of School Trustees, and attested by Stanley F. Wruble, III, Secretary of the Board, in duplicate, and the Superintendent has executed the same in duplicate, all on the date of the date hereof.

SOUTH BEND COMMUNITY SCHOOL
CORPORATION

By: _____
Jay Caponigro, President
Board of School Trustees

ATTEST:

Stanley F. Wruble, III, Secretary
Board of School Trustees

Kenneth Spells, Ed.D., Superintendent