

**FIRST AMENDMENT
TO
EMPLOYMENT AGREEMENT**

1st This First Amendment to Employment Agreement ("Amendment") is made effective this day of April, 2009, between the BOARD OF EDUCATION ("Board of Education") of Warren Consolidated Schools, a general powers school district (the "District") and ROBERT D. LIVERNOIS, Ph. D. (the "Superintendent").

RECITALS

- A. The Board of Education and Superintendent entered into an Employment Agreement dated February 27, 2008 (the "Agreement").
- B. The parties desire to amend the Agreement.
- C. The Board of Education deems it in the best interest of the District to amend the Agreement in accordance with the terms set forth herein.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Paragraph 1 of the Agreement is hereby amended and restated in its entirety to read as follows:

1. Term.

a. Consistent with the provisions of Section 1229 of the Michigan Revised School Code, as amended, MCL 380.1229, and the By-Laws of the Board of Education, the Board of Education employs ROBERT D. LIVERNOIS, Ph.D., to serve at the pleasure of the Board of Education as Superintendent of Schools of the District for a term commencing April 1, 2009 and terminating March 31, 2014.

b. For the term commencing July 1, 2009, upon the occurrence of a satisfactory evaluation of the Superintendent by the Board of Education, this Agreement shall be extended so as to maintain a five (5) year term.

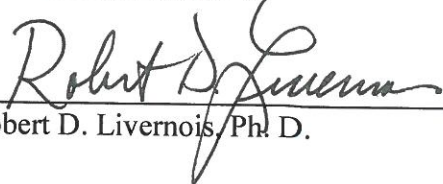
2. Paragraph 5.b of the Agreement is hereby amended by adding thereto the following:

Notwithstanding anything to the contrary in this Agreement, Superintendent, at his sole option, may elect to cash in up to five (5) earned, but unused, vacation days each fiscal year period of July 1 to June 30. The cash value of each vacation day cashed in will be equal to the Superintendent's daily work day rate of pay.

3. In all other respects, the Agreement shall remain in full force and effect in accordance with its terms.

This Amendment has been executed by the parties effective on the day and year first above written.


“SUPERINTENDENT”



Robert D. Livernois, Ph. D.

“BOARD OF EDUCATION”

**BOARD OF EDUCATION OF
WARREN CONSOLIDATED SCHOOLS**

By: 

Loretta A. Crow
Its: President

**EMPLOYMENT AGREEMENT
SUPERINTENDENT OF SCHOOLS
WARREN CONSOLIDATED SCHOOLS**

This EMPLOYMENT AGREEMENT made this 27TH day of FEBRUARY, 2008, between the **BOARD OF EDUCATION** ("Board of Education") of **WARREN CONSOLIDATED SCHOOLS**, a general powers school district (the "District"), and **ROBERT D. LIVERNOIS, Ph.D.** (the "Superintendent").

RECITALS

- A. The Board of Education desires to employ the Superintendent for the District, in accordance with the terms and conditions set forth below.
- B. It is the desire of the Board of Education to provide a salary, certain benefits, establish conditions of employment, and to set working conditions of the Superintendent.
- C. The Superintendent desires such employment, pursuant to the terms and conditions set forth below.

In consideration of the mutual covenants and obligations hereinafter set forth below, the parties agree as follows:

1. Term

Consistent with the provisions of Section 1229 of the Michigan Revised School Code, as amended, MCL 380.1229, and the By-Laws of the Board of Education, the Board of Education employs ROBERT D. LIVERNOIS, Ph.D., to serve at the pleasure of the Board of Education as Superintendent of Schools of the District for a term commencing April 1, 2008 and terminating March 31, 2013.

2. Duties

The Superintendent agrees to perform the duties of the Superintendent of Schools of the District in accordance with the rules, regulations, and policies of the Board of Education as the same may be from time to time amended by the Board of Education in its absolute and sole discretion after having provided the Superintendent with an opportunity to express his thoughts on the modifications of such rules, regulations and policies. The Superintendent shall devote his full business time and energy to the business and affairs of the District and shall use his best efforts, skill, and ability to promote its best interest. The Superintendent shall achieve and maintain a thorough working knowledge of the Board of Education's policies and the duties of the Superintendent provided therein.

3. Compensation

a. The Board of Education shall pay the Superintendent an annual salary of One Hundred Eighty-One Thousand and 00/100 (\$181,000.00) Dollars. This Employment Agreement is intended to coincide with the fiscal year of the District and the annual salary shall be paid for the period July 1 through the following June 30; the annual salary shall be prorated for the period from the date hereof to the following June 30th. The salary shall be paid in installments in accordance with the policies of the Board of Education governing payment of other professional staff members in the District.

b. Any adjustment of the salary or fringe benefits provided to the Superintendent pursuant to the terms of this Employment Agreement shall only occur subsequent to a performance evaluation conducted pursuant to Paragraph 9 of this Employment Agreement. Any such adjustment shall be in the form of a written amendment to this Employment Agreement, and shall become effective when approved by the Board of Education; provided, however, that by such an amendment and salary adjustment, the Board of Education shall not be considered to have entered into a new contract or employment agreement with the Superintendent, nor shall the termination date of this contract be deemed to have been extended.

c. The Superintendent shall annually receive a Tax-Sheltered Annuity in the amount of Four Thousand (\$4,000.00) Dollars.

d. The Superintendent shall annually receive an amount equal to Four (4%) percent of his base salary in recognition of his doctorate degree.

4. Professional Certification

During the term of this Employment Agreement, the Superintendent shall comply with all continuing education requirements set forth in Section 1246 of the Revised School Code, as amended, MCL 380.1246, and the administrative regulations of the Department of Education, and furnish proof of the completion of such requirements to the Board of Education.

5. Vacation and Other Benefits

a. The Superintendent shall be entitled, during the term of this Employment Agreement, to such sick leave, disability insurance, life insurance, hospital and medical insurance (or the alternative cash payment), vision, dental, and legal services as shall be granted to twelve (12) month administrators of the District and as are provided for in the Summary of Benefits for Central Office Administrators for Warren Consolidated Schools 2005-2008.

b. The Superintendent shall be entitled to receive Twenty-Five (25) working days vacation annually, exclusive of legal holidays; said vacation days may be taken within each twelve (12) month period commencing from the date of this Employment Agreement, provided that said vacation days for the twelve (12) month period shall be cumulative only to the extent of ten (10) days for each twelve (12) month period to a maximum of Five (5) days of previously earned vacation time. Vacation days shall be calculated on the basis of the District's fiscal year of July 1 to June 30 and prorated for portions thereof. Vacation day calculation shall be made by the appropriate district official in the personnel department.

c. The District shall provide to the Superintendent for business and personal use a late model (not to exceed three years old), mid-size American automobile in excellent condition. The District shall insure, service, fuel, and fully maintain the automobile at its expense. The District shall provide the Superintendent with a credit card in the name of the District to be used solely for the purpose of purchasing fuel for the automobile provided for herein. The Superintendent shall report his personal use of the automobile to the District, on such forms and in such a manner as prescribed by the District, in order that his taxable income derived from his use can be determined and reported under the applicable provisions of the Internal Revenue Code. The Superintendent may, at his option and in lieu of this benefit, receive an additional monetary amount as salary at the end of the Employment Agreement period, equal to the District's lease cost for the vehicle. Such additional salary amount shall be treated as income and reported as such to the Internal Revenue Service and Michigan Public Schools Employee Retirement System.

6. Superintendent Studies

Upon prior approval of the President of the Board of Education and after notification to all members of the Board of Education, the Superintendent may absent himself from the District for up to five (5) days in any twelve (12) month period to participate in educational studies or to participate in other educational activities, and the District shall pay or reimburse the reasonable, actual, and necessary expenses incurred by the Superintendent for such educational studies or activities. All such expenses shall be documented in accordance with the policies and practices of the District.

7. Expenses

The District shall pay or reimburse the Superintendent, by direct reimbursement, payment, or by providing appropriate credit cards, for reasonable and actual business expenses approved by the District and incurred by the Superintendent in the continuing performance of his duties under the terms of this Employment Agreement. All expenses, whether paid directly or by reimbursement, shall be documented and approved in accordance with the policies and practices of the District.

8. Professional Organizations

The Superintendent may attend meetings of appropriate local, state, and national professional organizations, and the cost of attendance shall be paid by the District. The District shall pay the membership fees and dues of the appropriate local, state, and national professional organizations. All such expenses shall be documented in accordance with the policies and practices of the District.

9. Performance Evaluation

The Board of Education shall annually evaluate, in writing, the Superintendent's performance prior to April 1st of each year using the criteria and an evaluation process mutually agreed upon by the Board of Education and the Superintendent.

10. Professional Liability

The District agrees that it shall defend, hold harmless and indemnify Superintendent from any and all demands, claims, suits, actions and legal proceedings brought against Superintendent in his individual capacity, or in his official capacity as agent and employee of the District, provided the incident arose while Superintendent was acting within the scope of his employment and did not involve any intentional or willful misconduct by the Superintendent. The Board may provide liability insurance for all or a portion of the obligation to defend or indemnify the Superintendent if authorized by law. In no case will individual Board members be considered personally liable for indemnifying the Superintendent against such demands, claims, suits, actions and legal proceedings under this Employment Agreement.

11. Medical Examination

Within the first three (3) months of this Agreement, and every three (3) years thereafter during any extension of this Agreement, or at any time upon the reasonable request of the Board of Education, the Superintendent shall obtain a comprehensive medical examination and provide a certification of continuing physical competency to perform the duties as provided for in this Employment Agreement to the Board of Education. Such statement and certification filed with the Board of Education shall be treated as confidential information by the Board of Education, to the extent permitted by law, and the cost thereof, including the cost of the medical examination, shall be paid for or reimbursed by the District. The report of the Superintendent's physical shall be on file with the Administrator of Benefits for the District and available for review by the President and Secretary of the Board of Education.

12. Activities Prohibited

Without the prior written approval of the Board of Education, the Superintendent shall not engage, for compensation or otherwise, in any consultative work, teaching, writing, or speaking engagement except in connection with the fulfillment of the Superintendent's duties as provided for in this Employment Agreement.

13. Board of Education and Superintendent Relationship

The Superintendent shall be the Chief Administrative Officer of the District. It is the intent of the Board of Education and the Superintendent that Board of Education members shall assist the Superintendent by forwarding to him complaints related to the operation of the District and individual Board of Education members shall not interfere with the administration of the District.

14. Administrative Organization

The Superintendent shall have, consistent with the Board of Education policy and collectively bargained agreements of the District, the right, subject to the approval of the Board of Education, to organize and reorganize the administrative staff of the District.

15. Termination

This Employment Agreement may be terminated by:

- a. The expiration of the term as provided for herein.
- b. The failure or inability of the Superintendent to provide and maintain in good standing the professional, educational, and medical qualifications required in this Employment Agreement.
- c. The Board of Education, for good and just cause. For purposes of this Employment Agreement, "good and just cause" shall be defined to include, but not be limited to, the following: continued inability to perform or unsatisfactory performance after a performance review, failure to uphold any Board of Education bylaws, policies or regulations, insubordination (including failure to follow lawful written directives of the Board of Education), grave misconduct in office, violation of law amounting to a felony, breach of this Employment Agreement by the Superintendent, embezzlement or other misuse of his position for personal gain or benefit, excessive absence interfering with job performance, falsification of records, fraud, or working under the influence of intoxicants or controlled narcotic substances not legally prescribed.
- d. Mutual agreement of the parties hereto.
- e. Death of the Superintendent.
- f. The Board of Education, at its option, in the event that the Superintendent shall be unable to perform any or all of his duties by reason of illness, accident, or other cause beyond his control and said disability exists for a period of time more than six (6) consecutive months, or if said disability is permanent, irreparable, or of such a nature as to make the performance of his duties impossible, the respective duties, rights, and obligations hereof shall terminate subject only to the long-term disability policy and fringe benefits that may apply.

g. Written resignation by the Superintendent.

16. No Tenure

It is hereby specifically agreed by the Superintendent and the Board of Education that this Employment Agreement as amended from time to time shall not confer upon and shall not be deemed to grant tenure as defined by the applicable statutes of the State of Michigan upon the Superintendent in the capacity of superintendent.

17. Damages

The parties agree that, in the event of a breach of this Employment Agreement, remedies shall be limited to actual damages, and in no event shall consequential, exemplary, or punitive damages be an available remedy.

18. Entire Agreement

This Employment Agreement contains the entire agreement between the parties hereto and replaces all previous agreements which are hereby deemed terminated.

19. Modification

This Employment Agreement may only be modified by a subsequent written agreement executed by the same parties or their successors in office following Board of Education approval. Oral promises or covenants between the parties, whether made prior to or after the execution of this Employment Agreement, shall not modify any provisions of this Employment Agreement and shall be of no legal effect.

20. Severability

The parties agree that, in the event any provision or statement in this Employment Agreement is held invalid by a court of competent jurisdiction, the remaining provisions or statements of this Employment Agreement shall remain intact and in effect.

21. Titles

Titles and headings to sections or paragraphs in this Employment Agreement are inserted for convenience of reference only and are not intended to affect the interpretation or construction of the Employment Agreement.

22. Attorney Review

The parties represent that they have carefully read this Employment Agreement and have consulted with their attorneys. The parties affirmatively state that they understand the contents of this Employment Agreement and sign this Employment Agreement as their free act and deed.

23. Applicable Law and Jurisdiction

This Employment Agreement shall be governed by and interpreted according to the laws of the State of Michigan, all rules and regulations of the State Board of Education, and the rules, regulations, and policies of the Board of Education, all of which are made a part of the terms and conditions of this Employment Agreement as though fully set forth herein. Any dispute arising out of this Employment Agreement shall be resolved in the Circuit Court for the County of Macomb, State of Michigan.

IN WITNESS WHEREOF, the parties have caused this Employment Agreement to be executed as of the day and year first above written.


"SUPERINTENDENT"



ROBERT D. LIVERNOIS, Ph.D.

"BOARD OF EDUCATION"

**BOARD OF EDUCATION OF
WARREN CONSOLIDATED SCHOOLS**

By: 

Loretta A. Crow
Its: President