

SUPERINTENDENT'S EMPLOYMENT AGREEMENT

Agreement made and entered into by and between ROCHESTER COMMUNITY SCHOOLS (hereinafter referred to as the "School District" or "District") and FREDERICK C. CLARKE (hereinafter referred to as the "Superintendent").

The School District and the Superintendent hereby agree as follows:

- 1. Term:** The District will employ the Superintendent from July 1, 2011 to June 30, 2015. Should the Board of Education of the School District desire not to renew this Agreement, the Board will give the Superintendent notice of its decision at least 90 days before the expiration date; otherwise, this Agreement will automatically renew for one more year.
- 2. Tenure:** The Superintendent will not have or acquire tenure as Superintendent of Schools or in any other administrative or assigned capacity. The District's failure to continue the Superintendent's employment after the term of this Agreement, or re-employ him/her in any other capacity, will not be considered a breach of this Agreement.
- 3. Qualifications:** The Superintendent represents and warrants that he/she meets, and will continue to meet, at least the minimum qualifications and certifications as may be required by the State of Michigan to serve as the District's Superintendent of Schools. The Superintendent warrants that he/she has the qualifications and certifications as represented by him/her in his/her resume and/or materials presented to the School District in the application for employment process.
- 4. Duties:** The Superintendent represents and warrants that he/she is able, and will continue to be able, to serve as the District's Superintendent of Schools in a competent and professional manner in compliance with applicable laws, policies and regulations adopted by the Board, and as otherwise directed by the Board. The Superintendent shall perform his/her duties over the full fifty-two (52) weeks of the School District's fiscal year (July 1 to June 30), less applicable vacation, leave, and holidays. The Superintendent shall be expected to attend meetings of the Board and its committees and to attend and participate in School District functions or, on occasion, other civic activities having relation to the School District's interests within the Rochester community. Among his/her other duties, the Superintendent shall prepare the agendas for each Board of Education meeting in consultation with the President of the Board or his or her delegate, and forward same to each member of the Board, along with his/her recommendations and supporting documentation on each agenda item, sufficiently in advance of the meeting so that each member can assimilate such information prior to the meeting. The Superintendent will act as advisor to the Board and keep it informed on matters pertaining to the administration of the School District. The Board collectively and individually shall refer promptly all criticism, complaints and suggestions called to their attention to the Superintendent for study and recommendation.

5. **Salary:**

- A) **Salary:** The Superintendent's salary for the 2011-12 school year will be \$172,000 (One Hundred Seventy Two Thousand Dollars), pro-rated for the number of weeks actually worked, payable in equal installments over the course of the school year.
- B) **Merit Pay:** Consistent with and part of the requirements of Race-to-the-Top legislation requiring that job performance be a significant factor in determining compensation and additional compensation as otherwise addressed in this Agreement, the Superintendent shall be eligible for merit pay in the amount not to exceed \$5000 (Five Thousand Dollars) for each school year the Board determines the Superintendent is eligible for merit pay. The Board and the Superintendent will agree to objective and challenging criteria for merit pay no later than the first date scheduled for student attendance during each school year of this Agreement; provided, however, in the absence of agreement between the Board the Superintendent, the Board will establish the merit pay criteria. The Board will notify the Superintendent whether he or she is eligible for merit pay no later than the first regularly scheduled Board meeting in June during each school year of this Agreement.
- C) **Negotiated Annual Increase in Salary:** At least thirty (30) days prior to July 1, 2012, and at least thirty (30) days prior to July 1 of each year thereafter during the existence of this Agreement or any extension thereof, the parties will negotiate regarding salary, merit pay and benefits for the Superintendent for the following school year. In the absence of mutual agreement on a salary, merit pay and/or benefits increase, the Superintendent's salary, merit pay and benefits and the term of the Agreement shall remain at the then current amount herein provided.
- D) **Method of Payment:** The Superintendent's compensation under this paragraph shall be paid biweekly, subject to deductions for withholding taxes, other deductions required by law and other amounts authorized by the Superintendent, with the approval of the Board of Education or its designee.
- E) **Tax-Sheltered Annuity:** For the 2011-12 school year, the Superintendent may elect to receive additional salary of up to \$6,200 (Six Thousand Two Hundred Dollars), pro-rated for the number of weeks actually worked, or, at the Superintendent's option, have all or a portion of this additional salary allocated to a tax-sheltered annuity plan for the Superintendent.

Beginning with the 2012-13 school year, the District shall contribute annually \$6,200 (Six Thousand Two Hundred Dollars), pro-rated for the

number of weeks actually worked, to a tax- sheltered annuity for the Superintendent during each year of this Agreement.

Such payments/contributions shall be paid in equal amounts over the course of the school year. The Superintendent shall own the annuity as required by Section 403(b) of the Internal Revenue Code. The Superintendent may arrange through a salary-reduction agreement for additional District contributions to the annuity on his behalf within the applicable legal limits. It is understood that the District shall not be liable in any manner for the annuity plan, the tax consequences related to the plan, or the taxable status of the benefits provided under the plan.

6. **Fringe Benefits:** The Superintendent will receive the following fringe benefits:
 - A. The District will reimburse the Superintendent for the reasonable, actual cost of an annual medical examination.
 - B. The District will assume the full cost of employer contributions to the Michigan Public School Employees Retirement System, as required by law.
 - C. The Superintendent may take up to 25 vacation days per school year, exclusive of legal holidays, subject to prior notice to the Board's President. The Superintendent may not carry over unused vacations days from school year to school year, and the Superintendent will not be compensated for any unused vacation days per year. The Superintendent will have the same paid holidays as provided in the Executive Administrators Personnel Manual
 - D. The Superintendent may take up to 12 sick days per school year. The Superintendent may be absent from duty due to personal business to a maximum of 5 days annually, which will be deducted from the 12 days provided annually for illness. The Superintendent may not carry over unused sick days from school year to school year, and the Superintendent will not be compensated for any unused sick days per year.
 - E. The District will provide the Superintendent the same insurance benefits (including disability and life insurance) as provided in the Executive Administrators Personnel Manual.

- F. The District will reimburse the Superintendent for actual automobile mileage in the course of his/her employment at the then applicable IRS rate, but not including mileage for transportation to or from his/her residence.
- G. It is anticipated that the Superintendent and his family will move into the District as residents. Upon presentation of appropriate documentation, the Board will reimburse the Superintendent for his moving expenses (which are understood not to include packing expenses) up to a maximum of \$3,000 for moving his residence within the Rochester Community School district boundaries by June 30, 2012.

7. **Professional Development:** The District will support the Superintendent's professional development by reimbursing him/her for membership charges for professional, and civic, health or welfare organizations proposed annually by the Superintendent and approved annually by the Board. Additionally, the Board may, upon request, pay the Superintendent's reasonable, actual expenses for attending appropriate professional activities and conferences.

8. **Expenses:** The Board will reimburse the Superintendent for reasonable, actual and necessary expenses incurred on District business. The Superintendent will submit itemized expense statements, on a monthly basis, to the Board for review and approval by the Board President.

9. **Other Work and Interests:** The Superintendent may not accept other employment or work, or acquire interests, that may be adverse to or otherwise interfere with his/her ability to execute his duties under this Agreement, except with prior notice to and approval by the Board.

10. **Evaluation:** Annually, but no later than March 31st of each year, the Board of Education of the School District shall during the term of this Agreement review with the Superintendent the Superintendent's performance, which may include progress toward established goals and his/her working relationships with the Board, staff and community. Consistent with the requirements of Race-to-the-Top legislation, the Board and Superintendent shall also establish criteria for job performance and job accomplishments as a significant factor in determining compensation and additional compensation in accordance with guidelines promulgated by the Michigan Department of Education that may be applicable.

11. **Indemnification/Hold Harmless:** For any action or non-action taken by the Superintendent, the District 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, provided the incident arose while the Superintendent was acting within the scope of his/her employment, such liability coverage is within the authority of the District to provide under state law, and excluding criminal litigation, 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. The Superintendent shall immediately notify the Board of any request for indemnification for any claim or action against him/her. The Board and the District have the right to conduct the defense of any such claim or action and the Superintendent shall fully cooperate with the Board and the District in the defense. The District may purchase liability insurance to cover its responsibilities set forth above. It is understood that the provisions above shall remain applicable and in effect even after the Superintendent terminates his/her employment with the District.

12. **Termination:** The Superintendent may terminate this Agreement during its term by providing the Board at least 60 days advance written notice. The District shall be entitled to terminate the Superintendent's employment at any time during the term of this Agreement without further obligation or liability to the Superintendent for salary, remuneration or fringe benefits, for just cause. "Just cause" shall specifically include, but not be limited to, actions or omissions of the Superintendent that constitute moral turpitude, misconduct, dishonesty, fraud, insubordination, incompetence, material breaches of the terms and conditions of the Agreement, and/or conviction for offenses involving impairment or illegal possession related to drugs or alcohol. The "just-cause" standard for termination of this Agreement during its term shall not apply to non-renewal of this Agreement at any interval at which the Board is required to take action to renew or not renew it, which decision is discretionary with the Board of Education, or upon final expiration of the term of the Agreement.

13. **Arbitration:** The Superintendent and the District agree that any and all claims arising from, or relating to, the Superintendent's employment with the District or this Agreement will be subject to final and binding arbitration according to the American Arbitration Association's National Rules for the Resolution of Employment Disputes. The Superintendent and the District also agree that a judgment on the award of the arbitrator(s) may be entered in any court of competent jurisdiction. The Superintendent and the District acknowledge and agree this paragraph of this Agreement precludes either from filing covered claims in court and, therefore, waive any right to trial by jury otherwise available.


14. **Limitations of Actions:** The Superintendent and the District agree that any civil action or demand for arbitration must be filed no later than 180 calendar days from the date on which the claim or cause of action upon which it is based accrued, or no later than 180 days from the termination of the Superintendent's employment, whichever is sooner. The District and the Superintendent waive any limitations period longer than 180 days, but agree to be bound by any shorter limitations period.

15. **Waiver of Breach:** The Board and the District will not waive any breach of any provision of this Agreement except in writing. Such a waiver will not waive future breaches.

16. **Severability:** If any provision of this Agreement is prohibited by the laws of the United States or the State of Michigan, that provision will be unenforceable without invalidating the remaining provisions of this Agreement.

17. **Entire Agreement:** This Agreement is the parties' entire agreement and supersedes any other prior or contemporaneous agreement, written or verbal. The Agreement may not be modified or rescinded except by another written agreement, approved by the Board in a public meeting, and signed by both the parties.

SUPERINTENDENT



Frederick C. Clarke 5-6-11
Date

**BOARD OF EDUCATION OF THE
ROCHESTER COMMUNITY SCHOOLS**

By: 

Barbara Cenko, President 5-9-11
Date

By: 

Gerald Moore, Secretary 5/9/11
Date