

# Holland Public Schools

2012 – 2015

## SUPERINTENDENT EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (the “Agreement”), entered into this 1st day of July, 2012 by and between the BOARD OF EDUCATION (the “Board”) of the SCHOOL DISTRICT OF THE CITY OF HOLLAND, OTTAWA AND ALLEGAN COUNTIES, MICHIGAN (the “District”) and BRIAN DAVIS (the “Superintendent”), is made with reference to the following facts and circumstances:

The Board and the Superintendent agree that it is desirable to have a written employment contract to describe their relationship and to serve as the basis for effective communication between the Board and the Superintendent as they fulfill their respective governance and administrative functions in the operation of a quality educational program within the District.

THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, the Board and the Superintendent agree as follows:

1. Employment and Term of Agreement. Pursuant to The Revised School Code, the Board agrees to employ the Superintendent as the District’s superintendent of schools, and the Superintendent agrees to accept such employment for a term of three (3) years, commencing on July 1, 2012 and ending at 11:59 p.m. on June 30, 2015, subject to all of the covenants and conditions of this Agreement. Notwithstanding the term of employment prescribed in this paragraph, this Agreement shall be subject to extension or renewal as provided in Paragraph 29 and shall be subject to termination as provided in Paragraph 30 and non-renewal in accordance with Section 1229 of The Revised School Code.

2. Qualifications. Throughout the term of this Agreement, the Superintendent shall at all times: (a) satisfy and comply with all continuing education requirements prescribed by State Board of Education rule(s) established pursuant to Section 1246 of The Revised School Code; and (b) possess such other qualifications (if any) as may be required (by applicable law, Board policy, rule or regulation) in connection with his service as the District’s superintendent of schools.

3. Tenure Exclusion. The Superintendent shall not be deemed to be granted tenure in his capacity as superintendent of schools, and he shall not acquire tenure in any other administrative capacity by virtue of his employment pursuant to this Agreement.

4. Duties of Superintendent. The Superintendent shall faithfully serve the District and the Board, and shall perform, in a competent and professional manner, his duties and responsibilities as superintendent of schools as directed by the Board and as required by the laws and regulations of the State of Michigan and of the United States. The Superintendent shall abide by and fulfill all such policies, rules and/or regulations as the Board may from time to time establish; and the Superintendent shall conscientiously carry out the Board’s and District’s programs, policies and procedures throughout the term of this Agreement. The Superintendent

shall serve as the chief executive officer and chief administrative officer of the District, The Superintendent shall be entitled and expected (unless excused by the Board) to present his recommendations to the Board on any subject under consideration by the Board, to attend each meeting of the Board, and to serve as an ex officio member of each committee established by the Board. The Superintendent shall be responsible for organizing, reorganizing and arranging the administrative and supervisory staff of the District, including instruction and business affairs, in a manner, which in his best judgment serves the District's best interests. To the extent permitted by applicable collective bargaining agreements and/or statutory requirements, the responsibility for District personnel decisions shall rest with the Superintendent, except that any and all decisions which involve: (a) the hiring or discharge of employees in positions requiring teacher and/or administrator certification, or (b) the hiring, discharge, transfer or reassignment of the District's central office administrators (i.e., the District's Assistant Superintendents and Directors), shall be subject to Board approval. The Board, and/or its individual members, shall promptly refer all criticisms, complaints and suggestions called to its/their attention to the Superintendent for study and recommendation. It is the intent of the Superintendent and the Board to promote free and open communication.

5. Board Meetings. Among his other duties, the Superintendent shall prepare the agenda for each meeting of the Board in consultation with the President of the Board. As a general rule and to the extent reasonably possible, the agenda for each Board meeting shall be forwarded by the Superintendent to each Board member, along with the Superintendent's recommendations and supporting documentation on each agenda item, sufficiently in advance of the Board meeting to enable each member of the Board to assimilate such information prior to the meeting at which such agenda item(s) will be considered. The Board recognizes that, under extenuating circumstances, strict compliance with the terms of this paragraph may not be possible.

6. Work Year. The Superintendent shall perform his duties over the full fifty-two (52) weeks of the District's fiscal year except for applicable vacation, leave and holidays. Unless excused by the Board, the Superintendent shall be expected to attend meetings of the Board and of its community and to attend and participate in District functions and other civic activities relating to the District's interests within the community.

7. Outside Work. During the term of this Agreement, the Superintendent agrees to devote his full working time, skill, effort and attention to the performance of his duties and responsibilities as the District's superintendent of schools. The Superintendent shall perform outside activities only on vacation days, and be allowed to retain any honorarium paid for such activities. In no case shall the District be responsible for any expense attendant to the performance of outside activities by the Superintendent.

8. Medical Examination. The Superintendent agrees to have a comprehensive medical examination once every year. A statement certifying the Superintendent's ability to perform the essential functions of the position shall be submitted to the Board President and treated as confidential information. The District, to the extent not covered by insurance, shall pay the cost of said physical examination and reports.

In the event of any dispute regarding fitness, the Superintendent shall provide the Board and/or release to the Board the results of any examination(s) upon which he relies.

The Superintendent shall also submit to such medical examinations, supply such information, and execute such documents as may be required by any underwriter, policyholder, or third-party administrator providing insurance programs specified under this Agreement.

Upon request by the Board or its designee, prior to resignation of employment after any personal illness in excess of 10 working days, or prior to return from any leave due to incapacity or disability of any duration, the Superintendent shall submit a fitness for duty certification, to the extent permitted by law, the cost of which shall be reimbursed by the Board to the extent not covered by available insurance.

9. Evaluation. The Board shall evaluate the Superintendent during each year of this Agreement. The evaluation shall include a semi-annual review based upon performance criteria mutually developed and agreed upon by the Superintendent and the Board (or an authorized committee of the Board) by September 30 which shall include student growth as measured by national, state, or local assessment and other objective criteria. The performance criteria shall be reduced into written format. The semi-annual evaluations shall occur prior to December 30, and June 1 of each school year. The first semi-annual evaluation shall be formative in nature to discuss the working relationship between the Superintendent and the Board, the Superintendent's progress in meeting his goals, the Superintendent's areas of strengths and any areas to bring to the Superintendent's attention. The final evaluation shall be devoted to a discussion and evaluation of the Superintendent's overall performance, with a written evaluation to follow within 30 days. Each evaluation shall be presented to and discussed with the Superintendent by the Board in a conference that shall be open or closed at the Superintendent's option. The Superintendent shall, during each year of this Agreement, timely submit to the Board President a written reminder of the Board's annual evaluation obligation pursuant to this Agreement. The evaluation shall be conducted in accordance with the same format, procedure and evaluation criteria as in the immediately preceding year unless the Board (or an authorized committee of the Board) and the Superintendent agree in advance to a different format, procedure, and/or evaluation criteria.

10. Strategic Objectives. The Board shall, in consultation and cooperation with the Superintendent, establish and adopt reasonable strategic objectives for the Superintendent by September 30 of each year. These strategic objectives shall be reduced to writing and shall, to the extent applicable, be among the criteria upon which the Superintendent is evaluated.

11. Compensation. The Board shall pay the Superintendent a base annual salary during the term of this Agreement as follows:

a) During the first year of this Agreement, July 1, 2012 through June 30, 2013, the Superintendent's base salary shall be One Hundred Thirty One Thousand Two Hundred Dollars (\$131,200.00) per year.

b) During the second and subsequent years of this Agreement, the Superintendent's base annual salary shall be agreed upon by the Board and the

Superintendent on or before July 1 and shall include job performance and job accomplishments as significant factors in determining the rate. Provided, however, that in the absence of such agreement the Superintendent's base annual salary shall at least continue at its then current rate.

c) The Superintendent's salary shall be payable in twenty-six (26) equal installments or in such other increments as may be provided by the District's policy applicable to its certified administrative personnel, and shall be subject to such deduction and withholding as is legally authorized by the Superintendent and/or required by law.

d) Upon graduation from a PhD program, Superintendent shall receive a lump sum of Ten Thousand Dollars (\$10,000).

12. Tax Sheltered Annuity. As additional remuneration for the Superintendent's services, the District shall make a contribution to a Section 403(b) tax-sheltered annuity on behalf of the Superintendent in the amount of twelve percent (12%) of the Superintendent's then current base annual salary, payable in equal installments at the same time the Superintendent's salary is paid under Paragraph 11 above. There shall be no option to receive the amount by payroll check as additional salary. The Superintendent shall be allowed to select the financial provider to which the contribution shall be paid from the approved list of providers maintained by the District for its 403(b) program.

13. Retirement and Service Credit. The District shall pay the mandatory retirement contribution to the Michigan Public School Employees' Retirement System ("MPERS") on behalf of the Superintendent during the term of this Agreement.

14. Group Insurance Benefits. The Superintendent shall be afforded all such group insurance benefits and programs (e.g., group health insurance, group dental insurance, group vision insurance, group long-term disability insurance, etc.) as are provided by the Board to its central office administrative staff. The Superintendent shall contribute 10% toward the premium of his health insurance benefits or \$100 per month whichever is greater and may elect to pay his share of any premium costs through the District's Section 125 plan. All such group insurance benefits and programs shall be provided to the Superintendent, and to his eligible dependents when applicable (e.g., group health, dental and vision coverage), on the same basis as such benefits and programs are made available to the Board's other central office administrative staff members; and all such coverage or benefits shall be subject to the terms and conditions of the applicable group insurance policies and/or other applicable plan documents. As used in this paragraph, the phrase "central office administrative staff" shall mean and include the District's various Assistant Superintendents and Directors.

15. Supplemental Life Insurance Allowance. The Superintendent shall receive, in December or January of each school year covered by this Agreement, a supplemental allowance which, in its gross amount, is equal to two percent (2%) of the Superintendent's then current base annual salary. Such supplemental allowance may, in the Superintendent's discretion, be used to purchase additional insurance coverage and/or be taken as additional compensation.

16. Automobile Allowance. The District shall pay to the Superintendent the following sums as a transportation allowance for travel by the Superintendent in performing duties under this Agreement within the boundaries of the Ottawa Area Intermediate School District:

a) During the first year of this Agreement, the Superintendent's automobile allowance will be in the amount of \$650.00 per month.

b) During the second and subsequent years of this Agreement, said automobile allowance shall, unless changed by mutual agreement of the parties, remain the same.

The Superintendent shall be responsible for maintaining such records as may be necessary to document the business use of the vehicle in the amount of the automobile allowance; and, in the event the automobile allowance exceeds the documented business use of the vehicle, the Superintendent shall be responsible for any and all taxable consequences.

Reimbursement to the Superintendent for use of his own vehicle in the performance of District business beyond the boundaries of the Ottawa Area Intermediate School District shall be consistent with the District's established policies and procedures regarding such reimbursement.

17. Paid Holidays. The Superintendent shall be entitled to paid leave for the following holidays; July 4, Labor Day, Thanksgiving, the day after Thanksgiving, Christmas Eve Day, Christmas Day, New Year's Eve Day, New Year's Day and Memorial Day.

18. Paid Vacation. During this Agreement, the Superintendent shall be entitled to twenty-seven (27) days of paid vacation, exclusive of paid holidays. Such vacation days shall not be cumulative from year to year (July 1 through June 30). Per diem pay for earned but unused vacation time will be made up to (but not exceeding) ten (10) days per year; and any unused vacation time in excess of ten (10) days per year shall be lost. It is intended that such vacation days be used (or paid to the extent permitted) during the year in which they are earned.

19. Paid Sick Leave Days. The Superintendent shall be provided with twelve (12) paid sick leave days per year (July 1, through June 30) for sickness or injury of a temporary or non-disabling nature. The Board may, at its discretion, grant additional Sick Leave not to exceed forty-five (45) days in the event of the Superintendent's illness or disability. Unused paid sick leave days shall be cumulative up to (but not exceeding) ninety (90) such days. Upon retirement or termination of employment, the Superintendent's sick leave days shall be paid if unused (up to the forty-five (45) day maximum at his per diem rate). The per diem is based upon a 260-day work year. At any time within the duration of this agreement the District may elect to compensate the Superintendent for unused Sick Leave days at his per diem rate up to a maximum of forty-five (45) days. Any Sick Leave days for which the Superintendent is provided compensation shall be deducted from his accumulated Sick Leave available.

20. Paid Personal Days. The Superintendent shall be allowed up to two (2) paid personal days per year (July 1 through June 30) for use in attending to the Superintendent's personal business. Such Personal Days shall not be cumulative, may not be carried over from year to year, and shall not be paid if unused.

21. Leave Reporting. The Superintendent shall, at least annually, provide the Board President and the District's chief administrative officer for Business Services with appropriate documentation of his use of the various paid leave benefits provided by this Agreement (e.g., paid vacation, paid sick leave, paid personal days, etc.), consistent with applicable Board policies and procedures.

22. Tuition Allowance. The District shall reimburse the Superintendent upon receipt of appropriate documentation, for up to Five Thousand Five Hundred Dollars per year (July 1 through June 30) for costs incurred by the Superintendent for tuition, fees and books for university course work undertaken by the Superintendent as part of an advanced degree program in education. To the extent this tuition allowance is unused in a given year, the unused balance may be carried over for use in a subsequent year up to (but not exceeding) a maximum accumulated tuition allowance of Eleven Thousand Dollars (\$11,000.00).

23. Continuing Education and Conference. The Superintendent may attend professional meetings at the local, state and national levels, with prior notice given to the Board President. The District shall pay the reasonable expenses for such attendance directly or by reimbursement to the Superintendent.

24. Professional Dues. The District shall pay the professional dues of the Superintendent for membership in the American Association of School Administrators and in the Michigan Association of School Administrators (including both state and regional memberships). The District will pay dues for other professional memberships if the Superintendent's membership is beneficial to the District as determined by the Board President.

25. Civic Organizations and Expense Account Allowance. The Superintendent shall, for each District fiscal year covered by this Agreement, include in the District's proposed annual budget a separate line item amount for the Superintendent's participation in civic organizations and for other reasonable business expenses to be incurred by his in the performance of his duties and responsibilities pursuant to this Agreement. The Superintendent may annually expend for such purposes an amount which does not exceed this budgeted line item as approved by the Board. The Superintendent shall not, however, in any fiscal year expend or encumber District funds in excess of the Board approved budgeted line item amount for the Superintendent's civic participation and/or other business expenses without prior Board approval. If any of the Superintendent's expenses for such purposes are to be reimbursed to the Superintendent rather than paid directly by the District, the Superintendent shall provide appropriate documentation of such reimbursable expenses consistent with the policies and procedures of the District.

26. Residency. The Superintendent shall establish and maintain his actual residence and legal residence and legal domicile within twenty (20) miles of the boundaries of the District.

27. General Liability and Errors and Omissions Insurance. The Superintendent shall be covered under the District's general liability and errors and omissions insurance policies in accordance with their terms.

28. Indemnification. If an insurance defense is not otherwise available to the Superintendent (and to the extent of the policy deductible even if available), the District shall, to

the extent permitted by and in accordance with applicable statutes, indemnify, defend and hold the Superintendent harmless against all civil claims, lawsuits and/or other legal proceedings brought against the Superintendent in his official capacity as an agent and employee of the Board provided the Superintendent was, with respect to the incident(s) giving rise to the legal proceeding, acting in good faith within the course of his employment and within the scope of his authority. In no case will any individual Board member be considered personally liable for indemnifying, defending or holding the Superintendent harmless with respect to any such legal proceeding. The foregoing indemnification, defense and hold harmless provisions shall not, however, apply with respect to any claim or assertion involving: (a) fraud, deceit, dishonesty, willful or intentional misconduct or wrongdoing, or criminal acts or omissions; (b) the gaining of any personal profit or advantage to which the Superintendent is not otherwise entitled; or (c) any other matter(s) which may be deemed not subject to indemnification under the law by which this Agreement shall be construed. Furthermore, if and to the extent the District has indemnified, defended or held the Superintendent harmless with respect to any matter(s) upon which the Superintendent is ultimately found liable, guilty or otherwise responsible for any conduct or occurrence described above (for which the District need not have indemnified, defended or held the Superintendent harmless), then and in such event the Superintendent shall reimburse the District for any and all such indemnification, defense and/or hold harmless costs and expenses having been incurred by the District for any and all such indemnification, defense and/or hold harmless costs and expenses having been incurred by the District on the Superintendent's behalf (including but not limited to actual attorney fees). Such reimbursement may be obtained by the District in any manner legally available to it, including (but not limited to) salary deduction or other offsets against moneys owed to the Superintendent. By execution of this Agreement, the Superintendent consents to payroll deductions to satisfy the reimbursement provisions of this paragraph.

29. Extension or Renewal of Agreement. This Agreement may be extended or renewed by the Board, or by operation of law, as follows:

a) Extension or Renewal by Board. On or before March 15 of each year during the term of this Agreement, the Board shall consider the extension or renewal of this Agreement for an additional one (1) year period. The Superintendent shall annually and timely remind each Board member, in writing, of the Board's obligation pursuant to this paragraph to consider such extension or renewal. If this Agreement is renewed or extended by the Board for an additional one (1) year period, the same shall occur by official Board action reflected in its minutes, and shall be confirmed in writing between the Board and the Superintendent. In the event of such extension or renewal by the Board, all other provisions of this Agreement (i.e., except for the Agreement's extended term) shall remain unchanged unless otherwise expressly provided by written agreement between the parties. The Board may in its discretion, refrain from renewing or extending this Agreement and, in the absence of its affirmative action to extend or renew the same, this Agreement shall not be extended (unless by operation of law as provided below).

b) Operation of Law. Unless the Board gives written notice of nonrenewal of this Agreement to the Superintendent at least ninety (90) days before June 30, 2015 (or any extended expiration date), this Agreement will, without further action, be

automatically renewed for an additional one (1) year period as provided by Section 1229 of The Revised School Code.

30. Termination of Agreement. The Board and the Superintendent agree that this Agreement (including any extension or renewal hereof) may be terminated as follows:

a) Termination. This Agreement (including any extension or renewal hereof) may be terminated prior to its expiration in the following manner and under the following circumstances:

- i) At any time upon mutual written agreement between the Board and the Superintendent or the voluntary resignation of the Superintendent upon providing 30 days notice;
- ii) In the event the Superintendent becomes unable to perform the essential functions and responsibilities under this Agreement by reason of illness, accident or other causes, and if such inability continues for a period of more than ninety (90) calendar days, then the Board, at its option, may terminate this Agreement;
- iii) This Agreement may be terminated (and the Superintendent's employment therefore discontinued) at any time for reasonable and just cause, but the Board shall not arbitrarily or capriciously do so. No termination pursuant to this paragraph, however, shall be effective until written charges have been served upon the Superintendent and the Superintendent has been afforded an opportunity for a fair hearing before the Board upon not less than ten (10) days notice in writing. The hearing shall be public or private at the option of the Superintendent; the Superintendent may be represented by legal counsel of his choosing and at his expense; the Board's decision shall be final and binding at such hearing;
- iv) At any time during this Agreement, the Board may discharge the Superintendent for acts of moral turpitude, grave misconduct in office, dishonesty, fraud, conviction of a felony or high misdemeanor, material misrepresentation or falsification of records, in which event, this Agreement may be terminated without any continuing liability on the part of the Board;
- v) In the event the Superintendent fails to possess such qualifications, pursuant to Paragraph 2 of this Agreement or otherwise, as may be required to serve as the District's superintendent of schools;
- vi) Upon the Superintendent's death.

b) Effect of Termination. Upon termination of this Agreement, the respective rights, duties and responsibilities of the parties pursuant to this Agreement shall cease (except for such rights, duties and responsibilities as may have accrued before such



termination). In the event the Board terminates this Agreement before June 30, 2015 for a reason other than the reasons defined in Paragraph 30 a) ii - vi, and provided that the Superintendent signs a release of all claims in a form satisfactory to the Board, the Board shall purchase from MPSERS on behalf of the Superintendent, one year of Universal Service Credit for each year or partial year of this Agreement not yet served, and it shall pay Superintendent an amount equal to his salary at the time of termination. These provisions do not restrict the Superintendent from seeking any other remedies provided in this Agreement.

c) Suspension. During the pendency of any termination proceedings and/or any investigation involving the Superintendent's conduct, the Board may in its discretion direct that the Superintendent suspend all or any part of the performance of responsibilities and may assign the performance of such responsibilities to others. Any such suspension of responsibilities shall, however, be without loss of salary or other benefits under this Agreement until the Superintendent is either reinstated or terminated.

d) Nonrenewal of Agreement. As set forth in Paragraph 1, this Agreement shall expire on June 30, 2015 or on a later date if this Agreement is extended or renewed pursuant to Paragraph 29. The parties understand and agree that the foregoing termination provisions of Paragraph 30 do not apply to a nonrenewal pursuant to this subparagraph (d).

31. Merit Pay. On or before September 30 of each year of this Agreement, the Board and the Superintendent shall establish, by mutual agreement, a written list of goals for the Superintendent during the upcoming school year which shall include job performance and job accomplishments as a significant factor and be an addendum to this Agreement. The Board, or its designee (such as a committee comprised of one or more board members), shall evaluate the Superintendent's performance relative to the goals. The evaluation shall occur during May or June of each school year just completed or about to be completed. Depending upon the Superintendent's performance relative to the goals, the Board may award him up to \$25,000.00 in merit pay for the year ending June 30, 2013 and in subsequent years the Board may award up to \$25,000 in merit pay. Any merit pay awarded under this agreement section of the agreement shall be paid in a single lump sum through the District's regular payroll system no later than June 30 of that contract year. However, payment of this amount is contingent upon the Superintendent continuing to be an employee of the District as of the date any lump sum merit pay amount is payable to the Superintendent.

32. Miscellaneous. The rights and obligations of the parties under this Agreement shall not be assignable. The waiver by either party of a breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach by that party. No waiver shall be valid unless in writing and signed by the party giving the waiver. Any notice required under this Agreement to be given to either party shall be made in writing, and shall be served or transmitted in person or otherwise mailed to the party at their last known address. This Agreement represents the entire understanding and agreement between the parties. Any prior understanding or agreement is superseded and replaced by this Agreement, and merged herein. The terms of this Agreement may be amended or modified, provided any such amendments or modifications are made in writing and signed by the parties.

This Agreement is being executed in the State of Michigan, and shall be governed by and construed in accordance with the laws of the State of Michigan. The captions appearing in connection with the various sections of this Agreement are provided for convenience only, shall not be deemed a part of this Agreement, and shall have no independent significance. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. If any provision of this Agreement shall be held to be invalid or unenforceable, the remaining provisions of this Agreement shall not be affected thereby, shall remain in full force and effect, and shall continue to govern the relationship between and among the parties. The terms of this Agreement shall be binding upon and inure to the benefit of the parties, their heirs, personal representatives, successors and assigns.

IN WITNESS WHEREOF, the Board has, through its authorized representatives, signed this Agreement as of the date and year first above written.

Signed, Sealed and Delivered  
In Presence of:

BOARD OF EDUCATION OF SCHOOL  
DISTRICT OF CITY OF HOLLAND,  
OTTAWA AND ALLEGAN COUNTY  
MICHIGAN

Sandra Heerspink

By: [Signature]  
President

By: [Signature]  
Secretary

IN WITNESS WHEREOF, the Superintendent has signed this Agreement as of the date and year first above written.

Signed, Sealed and Delivered  
In Presence of:

Sandra Heerspink

[Signature]  
Brian Davis  
Superintendent