

STATE OF NORTH CAROLINA

SUPERINTENDENT'S CONTRACT

COUNTY OF BUNCOMBE

THIS AGREEMENT is made and entered into as of the 18th day of December, 2019, by and between **THE ASHEVILLE CITY BOARD OF EDUCATION**, (hereinafter called the "Board") and **ROBERT EUGENE FREEMAN, ED. D.**, (hereinafter called the "Superintendent").

WHEREAS, the Board desires to provide the Superintendent with a written employment contract in order to enhance administrative stability and continuity within the schools which the Board believes generally improves the quality of its overall educational program; and

WHEREAS, the Board and the Superintendent believe that a written employment contract is necessary to specifically describe their relationship and to serve as the basis of effective communication between them, as they fulfill their governance and administrative functions in the operation of the education program of the schools.

NOW, THEREFORE, the Board and the Superintendent, for and in consideration of, the covenants and agreements contained in this Contract, and other good and valuable consideration, contract and agree as follows:

1. EMPLOYMENT, TERM, RESIDENCE AND OATH OF OFFICE

The Board hereby employs Dr. Robert Eugene Freeman as Superintendent of Schools for a four-year term beginning on July 1, 2020, subject to the provisions for termination as hereinafter provided, and ending June 30, 2024, under the terms and conditions set forth herein. The Superintendent shall reside in Buncombe County, North Carolina. The Superintendent shall take the oath of office required by N.C. Gen. Stat. § 115C-272 before assuming the duties of Superintendent. Should the Superintendent become eligible to begin his term prior to July 1, 2020,

the Superintendent will immediately notify the Board and an amendment to this Contract will be executed amending the term to start on the newly agreed upon date and expire four (4) years thereafter.

The Board may, by specific action and with the consent of the Superintendent, extend the term of this Agreement to the extent permitted by state law. The Board shall consider any such extension at the time of its annual evaluation of the Superintendent.

2. PROFESSIONAL CERTIFICATION AND RESPONSIBILITIES OF SUPERINTENDENT

A. LICENSE. The Superintendent shall qualify for and obtain prior to the beginning of the term of his employment and shall maintain throughout the term of his employment a valid and appropriate certificate to act as Superintendent as prescribed by the laws of the State of North Carolina and the regulations of the North Carolina State Board of Education (hereinafter called the "State Board")

B. DUTIES. The Superintendent shall have charge of the administration of the Asheville City School Administrative Unit under the direction of the Board. He shall be the chief executive officer of the Board; shall serve as secretary to the Board; shall direct and assign teachers and other employees of the schools under his supervision; shall organize, reorganize, and arrange the administrative and supervisory staff, including instruction and business affairs, as best serves the Asheville City School System; shall select all personnel subject to the approval of the Board; shall accept resignations for and on behalf of the Board; shall suggest regulations, rules and procedures deemed necessary for the well ordering of the school district; and in general perform all duties incident to the office of Superintendent as provided by law, including, but not limited to, those duties more particularly described by N.C. Gen. Stat. § 115C-276.

The Superintendent or his designee shall attend all Board meetings (except those portions thereof devoted exclusively to discussions about the Superintendent's contract, evaluation, and performance) and all Board committee meetings, serve as ex-officio member of all School Board committees, and provide administrative recommendations personally, or by a designee from the Superintendent's staff, on each item of business considered by each of these groups. The Board does not operate the District on a day-to-day basis, rather this is the job of the Superintendent. The Board, individually and collectively, shall promptly refer all criticisms, complaints, and suggestions called to its attention to the Superintendent for study and recommendation and shall refrain from interference with the administration of school policies except through Board action. Further, if the Board determines any corrective action is needed regarding policies, the Board will advise the Superintendent of the actions needed and provide him appropriate and reasonable amount of time to make any corrective actions. The Superintendent may not be reassigned to another position without the mutual agreement of the Superintendent and the Board.

3. COMPENSATION

The "annual base salary" paid to the Superintendent from state and local funds shall be One Hundred Fifty Thousand Dollars (\$150,000.00) per year for the term of this Agreement. The Board may increase the Superintendent's base salary by mutual consent or at any time by action of the Board. In the event of any dollar increase by the State in the top of the salary range for a Superintendent II (or the appropriate classification for the Asheville City Schools Superintendent position in effect at the time of any State increase) the Superintendent's base salary will be automatically increased by said dollar amount. In addition to the base salary, the "aggregate annual salary" to be paid to the Superintendent shall include the following: 1) any annual salary supplement approved or established by the Board which is applicable during the term of the

Superintendent's job position; 2) any longevity pay established by the State Board or a state law which is applicable during the term of the Superintendent's job position; and (3) any supplement established by the State Board for the Superintendent's doctoral degree.

The aggregate annual salary paid the Superintendent from state and local funds, less such amounts that are required to be withheld by state, federal, and local laws, rules, and regulations, shall be paid in equal monthly installments in accordance with the rules of the Board governing payment of other professional employees of the school administrative unit. If, at any time during the term of the Contract, the State of North Carolina withholds state funding specifically for the position of the Superintendent of Asheville City Schools, then the Board may withhold any such sums until said funding is released by the State.

4. MOVING EXPENSES

The Board shall reimburse the Superintendent for moving and relocation expenses from a regional or nationally-recognized moving company. Said reimbursement is subject to approval by the Board Chair and Vice Chair, and shall not exceed Five Thousand Dollars (\$5,000). Approval shall not be unreasonably withheld. Moving Expenses will be paid only one time to the Superintendent.

5. TRANSITION PER-DIEM

The Superintendent is encouraged to work with Dr. Bobbie Short, the outgoing Interim Superintendent of Schools, prior to the effective date of this Agreement in order to ensure an orderly and effective transition in the administration of the Asheville City Schools. The Superintendent will be reimbursed actual cost of lodging, meals and the IRS reimbursement rate for mileage for transition services. Said reimbursement is subject to approval by the Board Chair and Vice Chair. Approval shall not be unreasonably withheld.

6. VACATION AND OTHER BENEFITS

A. The Superintendent shall receive annual vacation and sick leave as provided by state law and North Carolina State Board of Education regulations. Annual vacation leave and sick leave shall be taken in accordance with Board policy and State Board of Education regulations. Annual vacation and sick leave may be carried forward as provided by law and Board policy, and payment for any accrued and unused annual leave at the termination of this Agreement shall be made in accordance with Board policy and State Board of Education regulations.

B. On July 1 of each year of this Agreement, or any extension thereof, the Superintendent shall receive an additional seven (7) bonus leave days that may be used for any reason in which he could use annual vacation or sick leave. If the Superintendent fails to use the bonus leave in the same year in which it was received, the leave shall expire and shall not be paid out to the Superintendent.

C. The Superintendent shall be eligible to receive at least the same life and health insurance coverage options, terminal pay and other personal benefits afforded to other employees of the school administrative unit as provided by law.

D. The Board, at the request of the Superintendent and in accordance with state law, shall withhold and transfer an amount of salary annually or semi-annually or monthly, said amount to be determined by the Superintendent, from the Superintendent's annual salary into any tax-deferred annuity or tax-deferred retirement plan chosen by the Superintendent that is tax-qualified under Sections 401(k), 403(b) and/or 457(b) of the Federal Internal Revenue Code.

E. The Board shall pay the Superintendent's membership charges for membership in up to five (5) professional organizations and up to three (3) civic or community

organizations of his choosing and, upon approval of the Board, for such other professional group memberships as the Superintendent feels are necessary to maintain and improve his professional skills. The Superintendent shall report to the Board the memberships that have been paid pursuant to this paragraph as part of the annual evaluation conference of the Superintendent.

F. The Superintendent may utilize any "cafeteria benefits plan" approved by the Board, as permitted under 26 U.S.C. § 125, or any successor plan or statute, to the fullest extent allowed by law or the plan, to receive any of the benefits provided in this Agreement.

G. At the Superintendent's request, the Board shall 1) provide the Superintendent with a telephone through the Board's contracted cellular carrier and 2) provide the Superintendent with a laptop computer, and other electronic devices appropriate for his work and *de minimis* personal use as approved by the Chair and/or Vice Chair. Approval shall not be unreasonably withheld. All maintenance and other monthly or recurring charges for the electronic equipment provided pursuant to this paragraph shall be at the expense of the Board, and all such equipment shall remain the property of the Board.

H. The Board shall reimburse the Superintendent for reasonable expenses incurred by the Superintendent on behalf of the Board. The Board recognizes that the Superintendent shall incur such expenses from time to time as the Board's representative in the pursuit of educational excellence, public and private funding opportunities, grants, and for other reasons. The Superintendent shall submit itemized expense statements to the Chair and/or Vice-Chair of the Board for approval of reimbursement of these expenses. Approval shall not be unreasonably withheld.

7. PROFESSIONAL GROWTH OF SUPERINTENDENT

The Board expects the Superintendent to continue his professional development and expects him to participate in relevant learning experiences. The Superintendent may attend appropriate professional meetings, conferences, and seminars at the local, state, and national levels and take any course work related to education, administration, educational leadership or his job duties. The reasonable expenses of said attendance will be paid from the current operating funds of the Asheville City School System. Expenses for such items as lodging, registration and transportation may be prepaid directly to the service provider or their billing agent. If the Superintendent's expenses exceed the State approved per diem rates for meals, reimbursement shall be subject to approval by the Chair and/or Vice Chair following the submission of actual receipts. Approval shall not be unreasonably withheld.

8. TRANSPORTATION

The Board shall provide the Superintendent with a transportation allowance for transportation required within Buncombe County in the performance of his official duties in the amount of FOUR HUNDRED and NO/100 Dollars (\$400.00) per month. In addition, the Board shall reimburse the Superintendent for out-of-county travel in his personal vehicle at the same rates as provided for all employees. In lieu of reimbursement for out-of-county travel, the Superintendent may use a Board-owned vehicle for such out-of-county travel.

9. PROFESSIONAL LIABILITY

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 his individual capacity, or in his official capacity as agent and employee of the Board, provided the incident giving rise to any such demand, claim, suit, action or legal proceeding

arose while the Superintendent was acting within the scope of his employment; and provided further, that such liability coverage is within the authority of the Board to provide under state law. The Board shall provide indemnity from liability as set forth above for all claims made and occurrences throughout the term of this Agreement and any extensions thereof. If, in the good faith judgment of the Superintendent, a conflict arises between the legal position of the Superintendent and the legal position of the Board in regard to the defense of any demand, claim, action, suit or legal proceeding, the Superintendent may engage independent counsel, and the Board shall reimburse the Superintendent for the reasonable expenses of such legal defense, provided such legal defense costs are not provided by any liability insurance policy or coverage agreement purchased by the Board, the Superintendent, or the State of North Carolina and provided the other conditions set forth in this Section are met. 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 Board shall not, however, be required to provide for or pay the costs of any legal proceedings in the event the Board and the Superintendent are adverse parties.

10. MEDICAL EXAMINATION AND DISABILITY

A. MEDICAL EXAMINATION. On or before three months from the date of this Agreement, and at any other times the Board may request, the Superintendent hereby agrees to present to the Chair and/or Vice Chair a statement from a licensed physician certifying to the physical competency of the Superintendent to perform the essential duties and responsibilities of Superintendent. Such required certifications shall be at the expense of the Board if requested by the Superintendent and all information shall be treated as confidential personnel information by the Board. In the event of serious illness or disability, the Superintendent, upon request by the

Board, shall furnish additional written medical records to the Board and these shall be treated as confidential personnel information.

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, the Board requests that the Superintendent not provide any genetic information when responding to any request for medical information. "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

B. DISABILITY. Should the Superintendent be unable to perform the essential functions of his position by reason of illness, accident, physical or mental incapacity, or other cause beyond his control, and should said disability exist for a period of more than sixty (60) days beyond that period of time which the Superintendent would have been entitled to take as sick leave or vacation or both, or if said disability is permanent, indefinite, irreparable, or of such nature that, as determined by the Board, will make the performance of his duties impossible, the Board may terminate this Agreement at its option, whereupon the respective duties, rights, and obligations hereof shall terminate. Notwithstanding the termination of this Agreement, nothing herein shall affect or preclude the Superintendent's access to or qualification for state disability benefits to which he may be entitled and the Board will cooperate fully with the Superintendent in his application for such benefits.

11. EVALUATION

The Board and the Superintendent shall discuss, at least annually on or before September 30th following each contract year, Superintendent-Board relationships and the Board will provide the Superintendent with an annual evaluation of his performance following the receipt of relevant information from the Superintendent. At the time of his evaluation, the Board shall review the Superintendent's compensation and term of office.

In December or January of each year, each Board member shall complete a mid-year assessment or survey to evaluate the Superintendent's progress toward meeting any annual goals. If, on the annual evaluation or mid-year assessment, a Board member rates the Superintendent less than "proficient" or "satisfactory", the Superintendent shall meet with the Board member and Board Chair to discuss the rating and any factual evidence that supports it.

12. CONSULTING AND OUTSIDE EMPLOYMENT

The duties and responsibilities of the Superintendent require full-time employment and frequently require that the Superintendent attend to his duties during the evenings, weekends and holidays. The Superintendent shall not accept any outside employment that in any manner interferes with the performance of his duties and responsibilities as Superintendent of the Asheville City School Administrative Unit. The Board does recognize that certain outside employment may have a beneficial impact on the Superintendent's professional growth or may not interfere with the Superintendent's performance of his duties and responsibilities. The Superintendent may accept a limited amount of paid consulting work, speaking engagements, writing, lecturing, or other professional activities or outside employment on weeknights, weekends, holidays, and annual leave days, provided that the Board has approved the outside employment and found that the outside employment in no manner interferes with the

Superintendent's performance of his duties and responsibilities. The Superintendent may teach or serve as an adjunct professor or in some other capacity at the college or university level on a part-time basis, subject to prior approval of the Board as to the time commitment. In addition, the Superintendent may accept appointments to foundations, Boards or commissions. The Superintendent shall submit a written report to the Board no later than June 1 and December 1 of each year listing all outside employment he has performed during the preceding six months.

13. CONFLICT OF INTEREST PROHIBITED

The Superintendent acknowledges that he has read and understands the conflict of interest statute of the State of North Carolina (N.C. Gen. Stat. § 14-234) and agrees to comply with the statute and any other state, federal or local laws, rules, and regulations, Board policies and State Board policies relating to conflicts of interest, bribes, kickbacks, gifts and favors.

14. TERMINATION FOR CAUSE

Throughout the term of this Agreement, the Superintendent shall be subject to discharge for cause as set forth in N.C.G.S. § 115C-274, as amended; provided, however, that the Board shall not arbitrarily or capriciously seek dismissal of Superintendent. If the Board seeks to dismiss the Superintendent, the Superintendent shall have the right to written charges, a fair hearing before the Board, ten (10) days written notice of said charges and hearing unless the Board shall find an emergency to exist requiring a shorter time of notice, which time shall be fixed by the Board, and a written final decision. The Board may elect to place the Superintendent on paid leave pending any hearing. At any such hearing before the Board, the Superintendent shall have the right to be present and to be heard, to be represented by counsel and to present through witnesses any testimony relevant to the issue. A transcript of the record of the proceedings before the Board shall be made available without charge to the Superintendent if requested. If the Superintendent

chooses to be accompanied by legal counsel at the hearing before the Board, he will assume the cost of his legal expenses. If, by a preponderance of the evidence, the Board determines that grounds for dismissal do exist and are substantiated, the Board may, by written resolution, order such dismissal and declare the office of the Superintendent vacant. However, without limiting the foregoing, the Parties hereto expressly agree that a conviction or plea of no contest to a charge of driving while impaired or impaired driving in this or any other state shall be grounds for termination of this Agreement.

Prior to any hearing before the Board, the Superintendent and Board may agree to meet to discuss possible resolutions regarding the Superintendent's employment. If the parties meet prior to a hearing, the parties agree that the outcome and contents of the meeting shall not constitute a violation of the Superintendent's due process rights under this Agreement or under State or federal law. Further, the parties agree that the meeting shall constitute settlement discussions and any statements made in the meeting, by either party, are confidential and shall not be admissible in any subsequent due process hearing or judicial proceeding.

15. UNILATERAL TERMINATION

The Superintendent may, at any time, resign from his position, provided that he provides the Board with a minimum of one hundred and twenty (120) days' notice of such resignation.

16. NO TENURE

The Board and the Superintendent agree that this Agreement is for employment for a limited term, that this Contract is not a continuing contract, and that there is no expectation or express or implied agreement by the Board for employment of the Superintendent beyond the term set forth in this Agreement. Should this Agreement expire without the Board affirmatively taking action to extend it, the Superintendent shall no longer be employed by the Board.

The Board and the Superintendent further agree that the Superintendent is not eligible to obtain career status (tenure) and that this Agreement of employment does not require the Superintendent to perform the responsibilities of a "teacher" as defined by N.C.G.S. § 115C-325.

17. MERGER OR CONSOLIDATION

In the event of merger or consolidation of the Asheville City School Administrative Unit with any other school system, by whatever means, prior to the expiration of this Agreement, the Board will be unable to fulfill its promises and obligations herein. Therefore, if the Superintendent is not selected and employed by mutual agreement as the Superintendent of the merged school system and, notwithstanding Paragraph 16(B) of this Agreement, the Superintendent, upon his written demand, shall be compensated in full for the salary and all other benefits and compensation to which he would have been entitled under the remaining term of this Agreement, in one lump sum payment, subject to N.C.G.S. § 115C-271(d) and to the extent permitted by law. If the Superintendent is selected as Superintendent of the merged school system, then the Board, or its successor, and the Superintendent shall renegotiate the terms and conditions of this Agreement.

18. AMENDMENT

This Agreement may be amended during its terms by mutual written consent of the Board and the Superintendent. Any such amendment shall be in writing, approved by official action of the Board, and accepted in writing by the Chairperson of the Board and the Superintendent.

19. GOVERNING LAW

This Agreement shall be governed and construed in accordance with the laws of the State of North Carolina and is further subject to any amendment, repeal or enactment of applicable provisions in the North Carolina General Statutes.

20. MULTIPLE ORIGINALS

This Agreement has been executed in three (3) originals, two (2) of which have been retained by the Board and one (1) of which has been retained by the Superintendent.

21. PUBLIC RECORD, PLACEMENT IN PERSONNEL FILE, AND FILING WITH THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

The Board and the Superintendent agree that this Agreement is a public record as defined by North Carolina law, that this Agreement shall be placed in the official personnel file of the Superintendent maintained by the Board, and that a duplicate original of this Agreement shall be filed with the State Superintendent of Public Instruction of North Carolina as required by North Carolina law.

22. SEVERABILITY

If a specific word, phrase, clause, sentence, paragraph, or any other part of this Agreement is or is found to be illegal or unenforceable under federal or state law, the remainder of the Agreement shall remain in force.

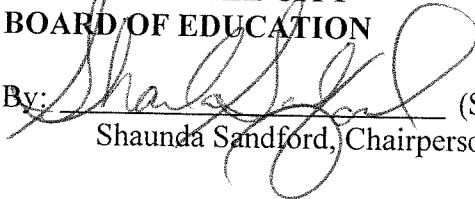
23. REPRESENTATIONS AND WARRANTIES


The Superintendent represents and warrants that he has never been discharged from any prior employment for cause, resigned from employment to circumvent termination, been convicted of a criminal offense which he has not disclosed to the Board, or declared bankruptcy. The Superintendent further warrants and represents that he has never been arrested for an alleged violation of the criminal laws of this state, another state or the federal government other than a minor traffic violation.

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IN WITNESS WHEREOF, the Board has caused this Contract to be executed in its name by its Chairperson and the Superintendent has executed this Contract by his signature thereto.


**THE ASHEVILLE CITY
BOARD OF EDUCATION**

By:  (SEAL)
Shaunda Sandford, Chairperson

By:  (SEAL)
Martha Geitner, Vice-Chair

Date Signed: 12/18/19


ROBERT EUGENE FREEMAN, ED. D.

By:  (SEAL)
Superintendent

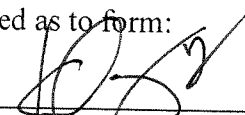
Date Signed: 12/18/19

Pre-Audit Certificate:

This instrument has been preaudited in the manner required by the School Budget and Fiscal Control Act (G.S. § 115C-441).


Finance Officer

Approved as to form:

By: 
Board Attorney