

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

SUPERINTENDENT'S CONTRACT

THIS AGREEMENT is made and entered into effective as of July 1, 2023, by and between **THE ASHEVILLE CITY BOARD OF EDUCATION** (hereinafter called the "Board") and **DR. RICHARD A. CRUZ** (hereinafter called "the Superintendent").

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 the Superintendent, and the Superintendent does hereby accept employment as Superintendent of the Schools of the City of Asheville Administrative Unit for a term starting on July 1, 2023 and ending June 30, 2027. The Superintendent shall reside in Buncombe County, North Carolina as required by law. However, the Board has a strong preference for the Superintendent to reside within the boundaries of the Asheville City School District. Therefore, Superintendent agrees to use his best efforts and exhaust all reasonable options to secure residency within the Asheville City School District. The Superintendent shall take the oath of office required by N.C. Gen. Stat. § 115C-272 before assuming the duties of Superintendent.

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

The Superintendent shall qualify for 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"). In lieu of any required certificate, the Board, at its sole election, may qualify the Superintendent for office using any method provided by law.

3. Duties

The Superintendent shall perform such educational duties as may be prescribed by the Board from time to time, including, but not limited to, the duties of Superintendent of Schools in the Asheville City School Administrative Unit and ex-officio secretary of the Board as prescribed now and from time to time during the term of this Contract by state and federal laws, rules, and regulations. Without limiting the generality of the foregoing, the Superintendent shall be the chief executive officer of the Board and shall be responsible for all student affairs, instructional and curriculum affairs, employment affairs, fiscal affairs, and business affairs, subject to those powers which are reserved to the Board by law, board policy, or board decision. The Superintendent, subject to Board Policy or directive, shall direct and assign teachers and other employees of the schools under his supervision; shall organize, re-organize, and arrange the administrative and supervisory staff, including instruction and business affairs, as he deems in the best interest of the Asheville City School System; shall select all personnel subject to approval of the Board of Education as required by law; shall have the authority to accept resignations of personnel, for and on behalf of the Board of Education; 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 Board individually and collectively,

shall promptly refer all criticisms, complaints, and suggestions called to its attention to the Superintendent for study and recommendation. Individual Board members shall refrain from interference with the administration of school policies except through Board action.

4. Compensation

a. The Board shall compensate the Superintendent for services by paying the Superintendent a Total Annual Salary comprised of the following:

1. An Annual Base Salary of Two Hundred Fifteen Thousand and No/100 Dollars (\$215,000) to be paid from a combination of State and local funds, including any education level supplements according to the State schedule, or other funds as the Board may choose, including but not limited to any local supplement provided by the Board or the Board of County Commissioners that is paid to all eligible employees of the Board as determined by the Board of Education and/or County Commissioners, if any; and
2. Any state-paid longevity supplements according to the State schedule.

b. The Superintendent shall be paid his Total Annual Salary less such amounts that are required to be withheld from such salary by state, federal, and local laws, rules, and regulations, in equal monthly installments at the time salaries of other professional employees of the Board are paid in accordance with N.C.G.S. § 115C-272(b).

c. Beginning July 1, 2024, the Superintendent shall be entitled to any salary increases, including vacation days, provided by the State government or County Commissioners in which other Central Office employees of the Board are entitled to receive.

d. Beginning July 1, 2024, if the State increases the maximum State funds allotted to the Asheville City Board of Education for the position of Superintendent pursuant to the State Salary Scale for superintendents based on district ADM, the Superintendent shall automatically receive such increase to his Annual Base Salary.

e. To the extent permitted by law, the Superintendent shall not experience a reduction in salary because of declining enrollment. However, if, at any time during the term of this Contract, the State of North Carolina withholds state funding specifically for the position of the Superintendent of Asheville City Schools due to misconduct by the Superintendent then the Board, after affording the Superintendent the opportunity to refute such charges before the Board, may withhold any such sums until said funding is released by the State. In no event will the Board withhold any such sums if the alleged act of misconduct was approved or ratified by action of the Board. Except as specifically provided in this contract, at no time during the term of this contract will the superintendent's aggregate salary be reduced.

5. Reimbursable Expenses and Fringe Benefits

a. Moving & Relocation Expenses.

The Superintendent shall obtain at least two (2) bids for moving and relocation expenses from local, regional, or nationally recognized moving companies. The Board shall reimburse the Superintendent up to the amount of the lowest bid for said expenses. Said reimbursement is subject to approval by the Board Chair and/or Vice Chair. Approval shall not be unreasonably withheld.

b. Transportation Allowance.

The Superintendent shall provide his own vehicle for the purposes of performing the Superintendent's duties. The Board will provide the Superintendent with a travel reimbursement

of FIVE HUNDRED and No/100 Dollars (\$500) per month for travel within Buncombe County. In addition, the Board shall reimburse the Superintendent for out-of-county travel in his personal vehicle at the same rate as provided for all employees. Upon approval by the Chair and Vice Chair, the Superintendent may use public transportation (i.e., airplane) for travel outside of North Carolina for official duties.

c. Professional and Civic Organizations.

The Superintendent is encouraged to become a member of appropriate local, state, and national professional and civic organizations and membership dues or fees will be paid by the Board, in an amount not to exceed Two Thousand and No/100 Dollars (\$2,000) per year. The Superintendent shall (except in emergencies) attend and participate in all required and appropriate optional meetings and programs of the State Board of Education, the State Superintendent of Public Instruction, and the State Department of Public Instruction. The expenses of membership in these organizations and attendance at the meetings and programs (including travel, meals, and lodging) will be approved by the Chairman of the Board and paid by the Board. The Superintendent shall file itemized expense statements with the School Finance Officer for reimbursement of such expenses in accordance with Board policy and good accounting practice. Requests for reimbursement of expenses in excess of those allowed by Board policy must be approved in writing by the Chair Vice Chair of the Board.

d. Miscellaneous.

The Board shall provide the Superintendent with communication and technology equipment as needed and will reimburse the Superintendent for other reasonable expenses incurred in the discharge of his duties.

6. Vacation, Holidays, Sick Leave and Health Benefits

a. The Superintendent shall accrue and use annual leave days and sick leave days in accordance with state law and State Board policy. In addition, the Board shall provide the Superintendent with ten (10) locally-paid vacation days during each year of this Contract. Such locally-paid days shall not accumulate from Contract year to Contract year and will not be paid-out at the time of separation (i.e., such days are "use or lose" each Contract year).

b. The Superintendent shall receive the same life, dental and health insurance coverage, and retirement benefits, granted to other professional employees of the Board by the Board, the State Board of Education, and the State of North Carolina.

c. The Board may, at the Superintendent's request, withhold or transfer an amount of the Superintendent's Total Annual Salary into a tax deferred retirement plan or tax deferred annuity plan available to the Superintendent or other professional employees of the Board.

d. The Board shall reimburse the Superintendent for reasonable expenses incurred by the Superintendent on behalf of the Board. The Board recognizes 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 Vice Chair of the Board for approval of reimbursement of these expenses. Approval shall not be unreasonably withheld.

7. Medical Examination and Information and Disability

a. Medical Examination.

Prior to taking office and every year thereafter, the Superintendent agrees to undergo a medical examination by a licensed physician, and to provide the Board with a statement from the physician certifying to the physical and mental capacity of the Superintendent to fulfill his duties and responsibilities. This information shall be treated as confidential by the Board. The Board

shall pay the reasonable expense of such medical examinations. 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.

b. Disability.

Should the Superintendent be unable to perform any or all of his duties 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, excluding sick leave or vacation leave, or both, or if said disability is permanent, irreparable, indefinite, or of such nature as, in the discretion of the Board, will materially impair the performance of his duties, the Board may, at its option, and subject to applicable provisions of state and federal law regarding handicapping conditions and disabilities, terminate this agreement whereupon the respective duties, rights, and obligations hereof shall terminate.

8. Annual Evaluation

The Board shall provide the Superintendent with periodic opportunities to discuss Superintendent and Board relationships and shall inform him, at least annually, of his performance perceived by the Board. This provision shall be read in accordance with existing Board of Education policy.

The Board will meet in closed session with the Superintendent each contract year for the purposes of evaluating the Superintendent's job performance and providing the Superintendent with an opportunity to comment on and discuss Superintendent and Board relations with the Board. The evaluation shall be summarized in writing and delivered to the Superintendent in a reasonable amount of time after its completion. The Board and Superintendent shall agree on the evaluation instrument that will be used for the Superintendent's evaluation. Following the

Superintendent's evaluation, the Board may at its discretion and by specific action with the consent of the Superintendent extend the termination date of this contract to the extent permitted by state law. Annually, directly after the Board has completed the Superintendent's evaluation, the Board may review his salary in light of the changes in the cost of living, inflation, and the Superintendent's performance and may determine whether to increase the Superintendent's salary and/or other benefits for the following fiscal year. The annual salary of the Superintendent may be increased by amendment for any subsequent fiscal year during the term of this Contract. In no event, however, shall the salary adjustment reduce the annual salary below that of the preceding fiscal year unless agreed to by the parties in writing. Any adjustments to the annual salary for subsequent years during the term of this Contract shall be in writing and shall be in the form of an amendment or addendum to this Contract. The failure of the Board to evaluate the Superintendent hereunder shall not constitute a breach of contract or a condition precedent to any proceedings brought by the Board pursuant to Paragraph 11 below.

9. Consulting and Outside Employment

The duties and responsibilities of the Superintendent require full-time employment and frequently require 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 recognizes certain outside employment may have a beneficial impact on the Superintendent's professional growth; however, it may not interfere with the Superintendent's performance of his duties and responsibilities. The Superintendent may accept a limited amount of outside employment on weeknights, weekends, holidays, and on vacation days, provided the Board has approved the outside employment and

found the outside employment in no manner interferes with the Superintendent's performance of his duties and responsibilities. The Superintendent shall make a written report to the Board no later than June 1 of each year listing all outside employment he has performed during the preceding twelve months.

10. Conflict of Interest Prohibited

The Superintendent acknowledges that he is subject to certain conflict-of-interest statutes of the State of North Carolina and agrees to comply with the relevant statutes 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.

11. Discipline and Termination of Employment

a. Dismissal and Discipline for Cause.

The Board may discharge the Superintendent during the term of this contract for cause as provided by law, including the reasons set forth in N.C.G.S. § 115C-274 (including any subsequently enacted amendments thereto). Said reasons include, but are not limited to the following: 1) commission of an act that is a crime involving moral turpitude; (2) conviction or plea of no contest in this or any other state of driving while impaired; 3) failure to follow any reasonable directives received by the Superintendent from the Board and contained in the written job evaluation provided in Section 8 of this Contract; 4) disability or incapacity of the Superintendent as provided in Section 7(b) of this Contract; and 5) failure to maintain the appropriate Superintendent's certification, if required.

If a member of the Board has cause to believe grounds exist for the Superintendent's discharge, said member may present to the Board a statement setting forth such grounds. Upon receipt of a report from the Superintendent of Public Instruction (as provided for in N.C.G.S. §

115C-274), or otherwise to provide due process, the Board may, at its option, appoint legal counsel to investigate any alleged grounds for dismissal and make a recommendation to the Board as to whether a hearing should be held to determine whether grounds for dismissal exist.

The Board shall not arbitrarily or capriciously call for the Superintendent's dismissal and the Superintendent shall have the right to written charges, notice of hearing and a fair hearing before the Board. If the Board has evidence of, or has received a report from the State Superintendent of evidence of charges which, if true, would constitute a cause for dismissal hereunder, the Board shall, after twenty (20) days prior written notice to the Superintendent, hold a hearing at which 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 and evidence relevant to the charges. A transcript of the record and the proceedings before the Board shall be made available without charge to the Superintendent in the event an appeal is taken by the Superintendent from any action taken by the Board. The hearing shall be conducted during a closed session of the Board. If the Superintendent chooses to be accompanied by legal counsel at the hearing before the Board, he will pay the cost of his legal expenses. If, by the preponderance of the evidence, the Board determines 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. Such action to declare the office vacant shall be taken in open session in compliance with the North Carolina Open Meetings Law, N.C.G.S. § 143-318.11(a)(6).

Prior to any hearing before the Board, the Superintendent and the Board and/or its designees may agree to meet to discuss possible resolutions regarding the Superintendent's employment. If the parties meet prior to a hearing, the parties agree the discussion, outcome, and contents of any such meetings shall not constitute a violation of the Superintendent's due process

rights under this Contract or under State or federal law. Further, the parties agree that any such 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.

If the Superintendent does not wish to be heard regarding the charges against him, he shall notify the Board at least ten (10) days prior to the hearing date of his decision and such notice shall be in writing and contain the Superintendent's "notice of resignation in lieu of disciplinary proceedings" which notice shall be public record.

During any pending investigation and resulting disciplinary proceedings, the Board may suspend the Superintendent with pay for a reasonable period, not to exceed ninety (90) days.

If, after a hearing as described above, the Board determines grounds exist for disciplining the Superintendent short of termination, the Board may suspend the Superintendent without pay for a reasonable period, not to exceed ninety (90) days.

b. Unilateral Termination by Superintendent.

The Superintendent may at any time resign from his position, provided that he provides the Board with a minimum of ninety (90) days' notice of such resignation.

c. This Contract shall automatically terminate upon the untimely death of the Superintendent.

d. Assignment Prohibited.

This Contract is personal in nature with regards to the services to be provided and cannot be assigned and shall terminate automatically in the event the Superintendent cannot continue in office or otherwise abandons or forfeits title to his office.

12. No Tenure or Career Status

The Board and the Superintendent agree this Contract is for employment for a limited term of years, this Contract is not a continuing contract, and there is no express or implied agreement by the Board for employment of the Superintendent beyond the term set forth in this Contract. Should this contract 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 the Superintendent is not eligible to obtain career status (tenure) and this Contract of employment does not require the Superintendent to perform the responsibilities of a "teacher" as defined by N.C.G.S. § 115C-325.

13. Amendment

This Contract may be amended during its terms by mutual written agreement of the Board and the Superintendent. Any such amendment shall be in writing, approved by official action of the Board, and executed in writing on behalf of the Board by its Chairperson and executed by the Superintendent.

14. Governing Law

This Contract 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.

15. Multiple Originals

This Contract has been executed in three (3) originals, one (1) of which has been retained by the Board, one (1) of which has been retained by the Superintendent, and one (1) of which has been retained by the School Board Attorney for filing with the State Superintendent of Public Instruction of North Carolina.

16. Public Record, Placement in Personnel File, and Filing with the State Superintendent of Public Instruction

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

17. Indemnity

The Board agrees it shall defend, hold harmless, and indemnify the Superintendent through the purchase of applicable liability coverage 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. If action is brought against the Superintendent by the Board, the Superintendent will bear the cost of his own defense unless the Board's liability coverage covers said defense. All liability coverage provided must be within the authority of the Board to provide under state and federal 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.

18. Severability

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

19. Representations and Warranties

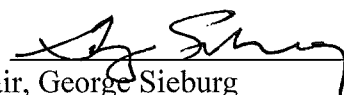
The Superintendent represents and warrants he has never been discharged from any prior employment for cause, resigned from employment to circumvent termination, been charged with or convicted of a criminal offense under federal or any state laws not otherwise disclosed to the Board of Education (other than a minor traffic violation), or declared bankruptcy.

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.

DR. RICHARD A. CRUZ

**THE ASHEVILLE CITY
BOARD OF EDUCATION**

 (SEAL)
Superintendent

By:  (SEAL)
Chair, George Sieburg

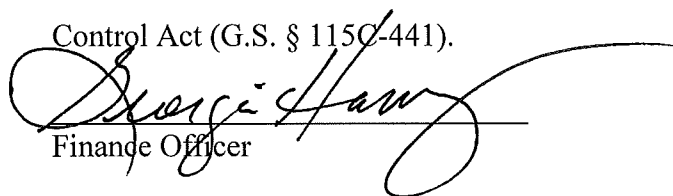
Date Signed: May 15, 2020

Date Signed: 5/15/23

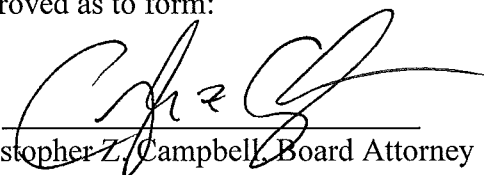
Pre-Audit Certificate:

This instrument has been pre-audited in the manner required by the School Budget and Fiscal

Control Act (G.S. § 115C-441).


Finance Officer

Approved as to form:

By: 
Christopher Z. Campbell, Board Attorney