

**MOUNTAIN VIEW WHISMAN SCHOOL DISTRICT
AGREEMENT FOR EMPLOYMENT OF SUPERINTENDENT**

THIS AGREEMENT is made this ____ day of June, 2019, by and between the Governing Board of the Mountain View Whisman School District (the "Board") and Dr. Ayindé Rudolph ("Superintendent"). The Board and Superintendent mutually agree as follows:

1. Term. Board hereby employs Superintendent for a term commencing July 1, 2019, and ending June 30, 2022, subject to the terms and conditions as set forth below. Subject to an overall satisfactory evaluation, as described in this Agreement, the Agreement shall be extended for an additional year so long as the term of this Agreement does not at any time exceed three years and so long as there is no automatic increase in the level of compensation, pursuant to this Agreement, that exceeds a cost-of-living adjustment in accordance with Government Code section 3511.2. Board action to extend for an additional year shall be taken during the open session of a regularly scheduled Board meeting.

2. Superintendent's Duties.

a. General Duties:

- The Superintendent shall be the Chief Administrative Officer of the District within the meaning of Education Code section 35029 (this Agreement hereby signifying the Board's waiver as set forth in said Education Code section), and shall serve as Secretary to the Board.
- The Superintendent shall perform duties of his office as prescribed by law, this Agreement and a job description which may be adopted and/or amended by the Board at any time.
- All powers and duties which may lawfully be delegated to the Superintendent are to be executed in accordance with the policies adopted by the Board. Such acts which may require ratification by the Board shall be referred to the Board at the earliest possible opportunity by the Superintendent.
- The Board, individually and collectively, shall channel criticisms, complaints and suggestions called to the Board's attention which, in the opinion of the Board may require action, to the Superintendent for study and recommendation.
- Superintendent shall be responsible for the operations of District, including, but not limited to, the areas of general administration, instruction, personnel, communications, government relations, facilities, and business affairs.
- For any time period during which at least one District facility is open and the Superintendent is unavailable, Superintendent shall appoint a responsible, competent District employee to temporarily fulfill Superintendent's duties and shall notify the Governing Board whenever the same is done.

- Superintendent must devote his time, attention and energy to the business of the District.

b. Board-Related Duties:

- The Superintendent will work with the Board in developing and maintaining a spirit of cooperation and teamwork in which the Board will accept responsibility for formulating and adopting policy and for taking action on matters which, by law, require Board action.
- The Board shall provide the Superintendent with periodic opportunities, at least two times a year, to discuss Board-Superintendent relationships as they relate to the Board's productivity and the effectiveness of the Superintendent's leadership. As a part of this process, when it is deemed necessary by either the Board or the Superintendent, an outside advisor may be retained to facilitate this process.
- Superintendent shall attend all regular, special and closed session Board meetings and Board committee meetings unless excused by the Board President.
- Superintendent shall have primary responsibility for the execution of Board Policy, although primary responsibility for the formulation of Board Policy is retained by the Governing Board.
- Superintendent shall be responsible for the development and execution of Administrative Regulations required to implement Board Policy and shall place any new or modified Administrative Regulations on the agenda of an open meeting.
- Superintendent shall keep all Board members advised of emerging issues that could have a material impact on the Governing Board or District. Whenever practical, Superintendent shall communicate with Board members in advance of scheduled Board meetings to the extent permitted by the Brown Act and open meeting laws.
- Superintendent shall have such other duties properly delegated to Superintendent by Board Policies or by other Board actions.

3. Work Year. Superintendent's work year shall consist of 224 days of service. Superintendent shall not accrue vacation time, and work performed on holidays (as defined in Education Code sections 37220 and 37221) or weekends shall not be credited toward days of service, except as provided herein or with the approval of the Board. Each year the Superintendent may elect to work up to ten (10) additional days of service, in excess of 224, for which he shall be compensated at his per diem rate with all necessary contributions deducted. Work performed in excess of 234 days of service will not be compensated, except with the approval of the Board.

4. Annual Salary. The annual salary of the Superintendent for the 2019-2020 fiscal year (July 1, 2019 through June 30, 2020) shall be Two Hundred Eighty-One Thousand,

Four Hundred Seventy-Seven Dollars and No Cents (\$281,477.00), payable in twelve (12) equal monthly installments.

The Board reserves the right to increase the Superintendent's salary during the life of this Agreement. Any increase in salary shall be reduced to a written amendment or addendum to this Agreement, and in so doing shall not constitute the creation of a new Agreement nor extend the Term of this Agreement without written changes, additions, modifications so expressly stating.

The Superintendent shall receive the same Master's and Doctoral stipends available to certificated employees.

5. Fringe Benefits.

- a. Post-Retirement Benefits.** Upon retirement, the Superintendent shall be provided fringe benefits according to the same eligibility requirements, coverage levels and duration of coverage applicable to certificated management employees of the District.
- b. Health, Vision and Dental Insurance.** District shall pay the premiums for Superintendent's health, vision and dental insurance coverage (full family coverage).
- c. Life Insurance.** District shall provide Superintendent, at District's expense, with a fully paid term life insurance policy in the face amount of \$500,000 with the beneficiary or beneficiaries for such policy to be selected by Superintendent.
- d. Automobile, Mileage.** Superintendent shall be reimbursed for mileage and for out of pocket District-related travel expenses outside of Santa Clara County at the current rate and in accordance with District policy.

6. Professional Support.

- a. Support for Duties.** Superintendent will be provided with such facilities, equipment, supplies, and clerical assistance as appropriate and financially feasible for the adequate performance of Superintendent's duties. Superintendent will be provided with the appropriate technology that will assist Superintendent in the performance of his job duties.
- b. Professional Membership Fees.** The Board agrees to pay Superintendent's annual professional membership fees to belong to the Association of California School Administrators (ACSA), the International Society for Technology in Education (ISTE), the Association for Supervision and Curriculum Development (ASCD), and other mutually agreed upon organizations.
- c. Expense Reimbursement.** The District shall reimburse Superintendent for actual and reasonable expenses incurred within the scope of the Superintendent's employment, so long as such expenses are permitted by District policy or incurred with prior approval of the Board. For reimbursement, Superintendent shall submit an expense claim in writing supported by appropriate written documentation. The District shall provide

Superintendent with a District credit card for actual and reasonable expenses incurred within the scope of employment in compliance with District policy.

- d. **Professional Development, Conferences and Meetings.** The Board supports the concept of life-long learning and encourages the professional growth of the Superintendent through attendance at professional conferences, seminars, and meetings at local and state levels. Prior approval of Board shall be obtained when the Superintendent attends a function outside the state. To the extent authorized by law, the District shall pay expenses related to attendance at all such meetings, including mileage or other travel expenses, as set forth above.

7. Outside Professional Activities. The Superintendent shall notify the Board President when he undertakes paid outside professional activities, including consulting, speaking and writing. The Superintendent's paid outside professional activities shall not occur during regular work hours, and in no event will the District be responsible for any expenses attendant to the performance of such outside activities, nor shall such outside activities interfere or conflict with Superintendent's duties set forth herein. The Superintendent shall inform the Board of his participation in unpaid speaking engagements on behalf of public school organizations, e.g., ACSA and CSBA. Such engagements may occur during regular work hours.

8. Evaluation.

- a. **Evaluation Cycle.** Board shall evaluate Superintendent annually in writing by June 30 for the period from July 1 through June 30 of the preceding school year. Superintendent shall place the subject of his evaluation on the Board's agenda to ensure timely completion of his evaluation. This evaluation shall be based on Superintendent's duties as set forth in the Education Code, Board Policy, and Administrative Regulation of the District, the District Superintendent job description, this Agreement, and any mutually agreed upon or Board-specified District goals and objectives. It is understood that the evaluation criteria set forth above apply as they presently exist or as changed or amended by law or the Board during the term of this Agreement. Board shall conduct its evaluation of the Superintendent in closed session meetings of Board. Board shall then meet with and provide a copy of the evaluation report to Superintendent in a closed session Board meeting.
- b. **Extension of Agreement.** Upon completion of the evaluation process and determination that the Superintendent's performance is satisfactory, Board shall extend the Superintendent's Agreement by one (1) additional year, subject to paragraph 1 of this Agreement, above.
- c. **Goals and Objectives.** The Superintendent and Board shall meet in June to establish the Superintendent's goals and objectives for the coming school year.

9. Medical Examinations. Superintendent shall undergo an annual comprehensive physical examination, typically prior to the start of each school year. The examination(s) shall be performed by a licensed medical doctor selected by the Superintendent and approved by the Board President. Prior to the examination, Superintendent agrees to execute a medial release authorizing the physician to review all relevant medical records.

The physician shall also review this Agreement, the job description and background information related to the duties of the position.

After the examination, the physician shall submit a confidential written report to the Board and the Superintendent addressing only the Superintendent's fitness to perform the job, and whether the Superintendent has any physical impairment that substantially limits the Superintendent's ability to perform the essential functions of the position with or without reasonable accommodation.

No confidential medical information shall be submitted to the Board, the District, any third party, or any of the District's officers, agents or employees unless it is determined that the Superintendent is unable to perform the essential functions of the position and such medical information is directly related to such determination or the development of reasonable accommodations. Costs of examinations and reports shall be borne by the District.

10. Termination of Agreement.

- a. Mutual Consent.** This Agreement may be terminated at any time by mutual written consent of Board and Superintendent.
- b. Non-Renewal of Agreement by the District.** If the Board elects not to renew or reemploy the Superintendent at the end of this Agreement or any extension thereof, then it shall give written notice to Superintendent at least forty-five (45) calendar days prior to the expiration of this Agreement or any extension thereof. The Board and Superintendent agree that this is intended to implement the notice requirements in Education Code section 35031. The Superintendent shall inform each member of the Board of this notice requirement no later than December 1 immediately prior to the expiration of this Agreement or any extension thereof. If the Superintendent fails to provide this notice to the Board, then he shall be deemed to have waived the requirements and automatic renewal provisions of section 35031, and shall further be deemed to have received notice of his non-renewal by the Board as if he had received actual timely notice of non-renewal. Any automatic renewal of this Agreement or extension thereof as a result of the absence of timely notice as set forth in this section shall comply with Government Code section 3511.2.
- c. Termination for Cause.** If the Board determines that the Superintendent has materially breached the terms of this Agreement or has neglected to perform his duties under it, the Board may terminate for cause. For purposes of this Agreement, "cause" shall exist if Superintendent: (1) refuses to act in accordance with a specific provision of this Agreement or lawful directive or order of a majority of the Board; (2) exhibits misconduct, or exhibits dishonesty as set forth in Education Code section 44932; (3) is convicted of a crime involving dishonesty, breach of trust, or physical or emotional harm to any person; or, (4) is unable to perform the essential functions of his position. The existence of such cause shall constitute a material breach of this Agreement and shall extinguish all rights and duties hereunder. If cause exists, the Board shall submit all charges in writing for the Superintendent's review. The Superintendent may request a conference with the Board. At the conference, the Superintendent and the Board shall each have the right to

be represented by counsel at their own expense. The conference shall not be an evidentiary hearing and neither party shall have the opportunity to call witnesses. The decision of the Board shall be in writing and final.

In accordance with Government Code section 53243.2, any severance payment to Superintendent shall be fully reimbursed to the District if Superintendent is convicted of any crime involving an abuse of his office or position with the District as defined by applicable law.

d. Unilateral Termination.

By the Board. The Board may unilaterally terminate this Agreement if for any reason, without cause or a hearing, at any time the Board determines in its sole discretion that such action is in the best interest of the District.

If the Board exercises this right, the Superintendent agrees to relinquish any further claims against the District and the Board, including any claims under this Agreement. In the event of such termination, the Board will pay the Superintendent an amount equal to the monthly salary of the Superintendent multiplied by the number of months left on the unexpired term of the contract. However, if the unexpired term of the contract is greater than twelve (12) months, the maximum amount paid by the Board shall be an amount equal to the monthly salary of the Superintendent multiplied by twelve (12). District-paid health care benefits will also be provided during this same period of time. The parties agree that damages to the Superintendent which may result from the Board's early termination of this Agreement cannot be readily ascertained. Accordingly, the parties agree that the damage payment made pursuant to this early termination clause constitutes reasonable liquidated damages for the Superintendent, fully compensates the Superintendent for all tort, contract and other damages, and does not result in a penalty. The parties agree that the District's completion of its obligations under this provision constitutes the Superintendent's sole remedy to the fullest extent provided by law. The parties agree that this provision is intended to meet the requirements governing cash settlements as set forth in Government Code sections 53260, et seq.

By the Superintendent. Superintendent may terminate Superintendent's obligations under this Agreement by giving Board at least ninety (90) days written notice.

e. Disability. Upon written evaluation by a licensed physician designated by the District indicating the inability of Superintendent to perform the essential functions of the position, with or without reasonable accommodation, this Agreement may be terminated by Board upon written notice to the Superintendent and after providing a reasonable opportunity to respond. The District may allow Superintendent to continue in employment until expiration of current and accumulated sick leave and differential leave, but upon receipt of the written evaluation specified above, may immediately assign another employee the duties of Superintendent.

f. Death. This Agreement is automatically terminated upon the death of the Superintendent.

- 11. Notice of Other Employment Opportunities Finalist in Search.** In all cases, Superintendent shall immediately notify Board upon becoming a finalist in the selection process for another position with any other school district, educational agency, or other potential employer.
- 12. Waiver.** No waiver of any breach of any term or provision of this Agreement shall be construed to be, nor shall it be, a waiver of any other breach of this Agreement. No waiver shall be binding unless in writing and signed by the party waiving the breach.
- 13. Complete Agreement.** This Agreement constitutes and contains the entire agreement and understanding between the parties concerning the Superintendent's employment with the District. This instrument supersedes and replaces all prior negotiations and all agreements proposed or otherwise, whether written or oral, concerning the subject matter hereof. This is an integrated document.
- 14. Governing Law.** This Agreement has been executed and delivered within the State of California, and rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of California.
- 15. Construction.** Each party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the same shall not be construed against any party on the basis that the party was the drafter. The captions of this Agreement are not part of the provisions of this Agreement and shall have no force or effect.
- 16. Execution.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Photographic copies of such signed counterparts may be used in lieu of the originals for any purpose.
- 17. No Assignment.** Superintendent may not assign or transfer any rights granted or obligations assumed under this Agreement.
- 18. Amendment.** This Agreement may be amended at any time during the term of the Agreement. Such amendment shall be in writing and is only effective with the mutual consent of the Superintendent and ratification of the Board.
- 19. Independent Review.** The Superintendent has had the opportunity to obtain, and has obtained, independent legal or other professional advice with regard to this Agreement.
- 20. Severability.** If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.
- 21. Board Approval.** To be binding, this Agreement must be ratified by a majority of the Board in open session during a regular Board Meeting.
- 22. Execution of Other Documents.** The parties shall cooperate fully in the execution of any other documents and in the completion of any other acts that may be necessary or appropriate to give full force and effect to this Agreement.

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The Governing Board of the Mountain View Whisman School District

Date: June __, 2019

Board President

Member

Vice President

Member

Clerk

ACCEPTANCE OF OFFER

I accept the above offer of employment and the terms and conditions thereof and will report for duty as directed above.

I have not entered into an Agreement of employment with the governing board of another school district or any other employer that will in any way conflict with the terms of this employment agreement.

I hold legal and valid administrative and teaching credentials issued by the State of New York, or North Carolina, or Virginia, each of which are recorded in the Office of the Superintendent of Schools of Santa Clara County. I further understand that my employment as Superintendent also constitutes employment as chief administrative officer of the District pursuant to Education Code Section 35029.

Dr. Ayindé Rudolph, Superintendent

Date

THIS AGREEMENT WAS RATIFIED BY THE GOVERNING BOARD AT ITS BOARD MEETING ON JUNE __, 2019.