

Date given Interim Superintendent: 1-27-10
Date returned by Interim Superintendent: 1-27-10

STATE OF TEXAS §
 §
COUNTY OF CALLAHAN §

INTERIM SUPERINTENDENT'S EMPLOYMENT CONTRACT

THIS AGREEMENT is made and entered into this, the **1st** day of **January 1, 2010**, by and between the Board of Trustees (hereinafter called "Board") of Eula Independent School District (hereinafter called "Eula ISD") and **Tim Kelley**, (hereinafter called "Interim Superintendent").

The Board and the Interim Superintendent, for and in consideration of the terms established in this Agreement and pursuant to Section 11.201 of the Texas Education Code, have agreed, and do agree, as follows:

I. Term

- 1.1 The Board, by and on behalf of the Eula ISD, does hereby employ the Interim Superintendent, and the Interim Superintendent hereby accepts employment as Interim Superintendent of Schools for the Eula ISD for a term of six (6) months, 120 Days, commencing on **January 1, 2010** and ending on **December 31, 2010**. The District may, by action of the Board, and with the consent and approval of the Interim Superintendent, extend the term of this Contract as permitted by state law.
- 1.2.1 The board has not adopted any policy, rule, regulation, law, or practice providing for tenure. No right of tenure is created by this Contract. No property interest, express or implied is created in continued employment beyond the Contract term.

II. Employment

- 2.1 *Duties.* The Interim Superintendent is the chief executive of the district and shall faithfully perform the duties of the Interim Superintendent of Schools for the Eula ISD as prescribed in the job description and as may be lawfully assigned by action of the Board and shall comply with all lawful Board directives, state and federal law, district policy, rules, and regulations as they exist or may hereafter be amended.

2.1. a. *Specifically, it shall be the duty of the Interim Superintendent to:*

1. Assume administrative responsibility and leadership for the planning, operation, supervision, and evaluation of the education programs, services, and facilities of the Eula ISD and for the annual performance appraisal of the Eula ISD's staff.
2. Assume administrative authority and responsibility for the assignment and evaluation of all personnel other than the Interim Superintendent.
3. Make recommendations regarding selection of Eula ISD personnel, subject to Board approval.
4. Initiate the termination or suspension of an employee's employment or the non-renewal of an employee's term contract.
5. Manage the day-to-day operations of Eula ISD as its administrative manager.
6. Prepare and submit to the Board annually a proposed budget covering all estimated revenue and proposed expenditures of the Eula ISD for the following fiscal year.
7. Prepare recommendations for policies to be adopted by the Board and oversee the implementation of adopted policies.
8. Develop appropriate administrative regulations to implement adopted policies.
9. Provide leadership for the attainment of student performance based on the academic excellence indicators adopted by the State Board of Education and other indicators adopted by the Board of Trustees of Eula ISD.
10. Organize the district's central administration.

The Interim Superintendent shall perform the duties of the Interim Superintendent of Schools for the district with reasonable care, diligence, skill, and expertise, and shall devote substantially all of his time, skill, labor, and attention to his employment and the performance of these duties during the term of this Agreement.

2.2 *Professional certification.* The Interim Superintendent shall at all times during employment by Eula ISD hold and maintain a valid certificate required of a Interim Superintendent by the State of Texas and issued by the Texas Education Agency and all other certificates required by law.

2.3 *Reassignment.* The Interim Superintendent cannot be reassigned from the position of Interim Superintendent to another position without due process or the Interim Superintendent's express written consent.

- 2.4 *Board Meetings.* The Interim Superintendent shall attend, and shall be permitted to attend, all meetings of the Board; both open to the public and closed, with the exception of those closed meeting devoted to the consideration of any action or lack of action on the Interim Superintendent's Contract, or the Interim Superintendent's evaluation, or for purposes of resolving conflicts between individual Board members, or when the Board is acting in its capacity as a tribunal. In the event of illness or Board-approved absence, the Interim Superintendent's designee shall attend such meetings.
- 2.5 *Criticisms, Complaints.* The Board, individually and collectively, shall refer to the Interim Superintendent all substantive criticisms, complaints, and suggestions brought to their attention by members of the public. The Interim Superintendent shall investigate such matters and make a report to the Board for its consideration.
- 2.6 *Indemnification.* The Board contracts that Eula ISD shall defend, hold harmless and indemnify the Interim Superintendent from any and all demands, claims, suits, actions, judgments, expenses, and attorney's fees incurred in any legal proceedings brought against the Interim Superintendent in his/her individual capacity or in his/her official capacity providing the incident(s) which is (are) the basis of any claim or lawsuit arose while the Interim Superintendent was acting within the course and scope of her employment with Eula ISD. Eula ISD shall provide insurance coverage to protect the Interim Superintendent as set forth herein. Eula ISD's obligation to indemnify, defend and hold the Interim Superintendent harmless under this paragraph survives the termination of this Contract.

III. Compensation

- 3.1 *Salary.* The Eula ISD shall provide the Interim Superintendent with an equivalent annual salary in the sum of **\$00, calculated on a daily rate of 226 days**. The annual salary shall be paid to the Interim Superintendent in equal monthly installments consistent with the Board's policies.
- 3.2 *Salary Adjustments* At any time during the term of this Contract, the Board may, in its discretion, review and adjust the salary of the Interim Superintendent, but in no event shall the Interim Superintendent be paid less than the salary set forth pursuant to Section 3.1 of this Contract except by mutual agreement of the two parties. Such adjustments, if any, shall be made pursuant to a lawful Board resolution. In such event, the parties agree to provide their best efforts and reasonable cooperation to execute a new contract incorporating the adjusted salary.
- 3.3 The District shall pay or reimburse the Interim Superintendent for reasonable expenses incurred by the Interim Superintendent in the continuing performance of

the Interim Superintendent's duties under this Contract. Such actual or incidental costs may include, but are not limited to, gasoline, hotels, and accommodations, meals, rental car, and other expenses incurred in the performance of the business of the District. The Interim Superintendent shall comply with all procedures and documentation requirements in accordance with Board policies.

- 3.4 *Vacation, Holidays, Leave Benefit.* Subject to the Board's approval of the scheduling, the Interim Superintendent may take the same number of days of vacation as are authorized by Board policy for administrative employees on twelve-month contracts. The vacation days will be taken at times that will least interfere with the performance of the Interim Superintendent's duties as set forth in this Agreement. Unused vacation does not accumulate from year to year and cannot be converted into compensation at the termination of the employment relationship. The Interim Superintendent shall observe the same legal holidays as provided by Board policies for administrative employees on twelve-month contracts. The Interim Superintendent shall be subject to the leave policies for administrative employees on twelve-month contracts.
- 3.5 *Health Insurance* Eula ISD shall provide the same health insurance coverage for the Interim Superintendent as is provided other fulltime district employees.
- 3.6 *Automobile/Automobile Expense Benefit.* Eula ISD shall provide the Interim Superintendent an automobile allowance in the amount of \$5,000.00 per year, prorated for 120 days, for the purpose of furnishing his/her automobile for transportation and travel in and around the Abilene area, and within the boundaries of the UIL district to which Eula ISD is or may be assigned. Any travel outside the district shall be reimbursed to the Interim Superintendent as specified in Section 3.3 above. For the purposes of this agreement, "out of district" is defined as outside the boundaries of the UIL District and the Abilene area, for any travel incurred for school business.
- 3.7 *Mobile Telephone Benefit.* Eula ISD shall provide the Interim Superintendent with a mobile telephone allowance in the amount of \$150.00 per month prorated for 120 days, for professional use of his/her own personal phone.

IV. Annual Performance Goals

- 4.1 *Development of Goals.* The Interim Superintendent, in cooperation with the District-Level Planning and Decision-Making Committee, shall submit to the Board each year, for its consideration and adoption, a preliminary list of goals for the Eula ISD. The goals approved by the Board shall at all times be reduced to writing and shall be among the criteria on which the Interim Superintendent's performance is reviewed and evaluated.

V. Review of Performance

- 5.1 *Time and Basis of Evaluation.* The Board shall evaluate and assess in writing the performance of the Interim Superintendent at least once each year during the term of this Agreement. The evaluation and assessment shall be reasonably related to the duties of the Interim Superintendent. The Board, at its discretion, may evaluate and assess the performance of the Interim Superintendent as many times during the year as it deems appropriate. The evaluation of the Interim Superintendent shall at all times be conducted in closed meeting.
- 5.2 *Confidentiality.* Unless the Interim Superintendent expressly requests otherwise in writing, the evaluation of the Interim Superintendent shall at all times be conducted in executive session and shall be considered confidential to the extent permitted by law. Nothing herein shall prohibit the Board or the Interim Superintendent from sharing the content of the Interim Superintendent's evaluation with their respective legal counsel.
- 5.3 *Evaluation Format and Procedure.* The evaluation format and procedure shall be in accordance with the evaluation instrument selected by the Board in accordance with the provisions of Article V of this Contract, the Board's policies, and state and federal law. In the event the Board deems that the evaluation instrument, format and/or procedure are to be modified by the Board, such modification must be adopted at least 6 months prior to its implementation.

VI. Renewal or Non-renewal of Employment Contract

- 6.1 *Renewal/Non-renewal.* Renewal or non-renewal shall be in accordance with Board policy and Section 21.212 of the Texas Education Code. It is expressly agreed by the parties that "loss of confidence in the Interim Superintendent by the Board" shall be a valid ground for non-renewal pursuant to Section 21.212 of the Texas Education Code, and this reason is made a part of the Board's policy for non-renewal of the Interim Superintendent's employment by reference. "Loss of Confidence in the Interim Superintendent by the Board" shall be defined as a vote of "no confidence" passed by a unanimous decision the Board.
- 6.2 *Notice.* If a majority of the Board determines that the Interim Superintendent's contract should be considered for non-renewal, the Board shall give the Interim Superintendent written notice, containing reasonable notice of the reason for the proposed non-renewal, not later than the 30th day before the last day of the contract term.
- 6.3 *Hearing.* The Interim Superintendent may request a hearing on the proposed non-renewal by notifying the Board of such request not later than 15 days after the receipt of the notice. The hearing shall be conducted in accordance with rules adopted by the Board of Trustees. At the hearing, the Interim Superintendent may be represented by a person of his choice, hear the evidence supporting the

reason(s) for non-renewal, cross-examine adverse witnesses, and present evidence.

- 6.4 *Appeal.* If the Interim Superintendent is aggrieved by the Board's decision, he or she may appeal to the Commissioner of Education in accordance with Subchapter G, Chapter 21, of the Texas Education Code.

VII. Termination of Employment Contract

- 7.1 *Mutual Agreement.* This Contract may be terminated by the mutual agreement of the Interim Superintendent and the Board in writing, upon such terms and conditions as are mutually agreed.

- 7.2 *Resignation.* The Interim Superintendent may leave the employment of the district at the end of a school year without penalty by filing a written resignation with the Board of Trustees not later than the 45th day before the first day of instruction of the following school year.

- 7.3 *Retirement or Death.* This Contract shall be terminated upon the retirement or death of the Interim Superintendent.

- 7.4 *Dismissal or Suspension Without Pay for Good Cause.* The Board may dismiss the Interim Superintendent, or suspend without pay for a period not to extend beyond the end of a school year, during the term of this Agreement for good cause. The following are examples of conduct and situations that may constitute "good cause", but the term is not limited in meaning by this list:

1. Failure to fulfill duties or responsibilities as set forth under the terms and conditions of this contract;
2. Incompetence or inefficiency in the performance of required or assigned duties as documented by evaluations, supplemental memoranda, or other written communication when the Board has provided the Interim Superintendent a reasonable opportunity to re-mediate any incompetence or inefficiency which is remediable;
3. Insubordination or failure to comply with lawful directives issued by action of the Board;
4. Failure to comply with the Board's policies or the Eula ISD's administrative regulations;
5. Neglect of duties;
6. Drunkenness or excessive use of alcoholic beverages;

7. Illegal use of drugs, hallucinogens, or other substances regulated by the Texas Controlled Substances Act;
8. Conviction of a felony or any crime involving moral turpitude;
9. Failure to meet the Eula ISD's standards of professional conduct;
10. Failure to comply with reasonable Eula ISD professional development requirements;
11. Disability, not otherwise protected by law, that impairs performance of the required duties of the Interim Superintendent;
12. Immorality, which is conduct the Board determines is not in conformity with the accepted moral standards of the community encompassed by the Eula ISD. Immorality is not confined to sexual matters, but includes conduct inconsistent with rectitude or indicative of corruption, indecency, or depravity;
13. Failure to put forth a reasonable effort to achieve a good rapport with parents, the community, staff, or the Board; However, failure to accomplish a good rapport under the terms and conditions of this paragraph shall be deemed not to be good cause when said good rapport with the staff or community is not achieved due to no fault of the Interim Superintendent. Failure to maintain good rapport with the Board, for any reason, in the sole and final determination of the Board shall be good cause. A unanimous decision of the board will be used to determine that the Interim Superintendent has failed to maintain "good rapport with the Board" for the purposes of this paragraph;
14. Assault on an employee or student;
15. Knowingly falsifying records or documents related to the Eula ISD's activities;
16. Conscious misrepresentation of facts to the Board or other Eula ISD officials in the conduct of the Eula ISD's business; or
17. Any other reason constituting "good cause" under Texas laws.

7.5 *Termination or Suspension Without Pay Procedure.* (a) In the event that the Board proposes to terminate this Agreement or suspend the Interim Superintendent without pay for "good cause", the Interim Superintendent shall be afforded all the rights as set forth in Board policies and is entitled to a hearing before a hearing examiner appointed by the Commissioner of Education and decision by the Board of Trustees under Subchapter f, Chapter 21, of the Texas Education Code.

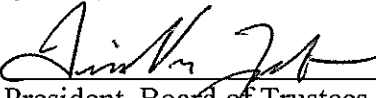
(b) In the event that the Board determines the Interim Superintendent has failed to maintain “good rapport with the Board”, which reason is “good cause” for termination under subparagraph 13 of paragraph 7.3, the Interim Superintendent hereby waives his constitutional right to notice and a hearing and to all other requirements of due process of law. If the Board invokes this provision and votes to terminate this Agreement on the ground that the Interim Superintendent has failed to maintain “good rapport with the Board”, Eula ISD shall pay to the Interim Superintendent as severance pay all of the aggregate salary he would have earned under the employment contract from the actual date of termination by Board action to the termination date set forth in this employment Agreement, but in no event to exceed a maximum of one year’s salary.

VIII. Miscellaneous

- 8.1 *Controlling Law.* This Contract shall be governed by the laws of the State of Texas, and shall be performed in Callahan County, Texas, unless otherwise provided by law.
- 8.3 *Complete Agreement.* This Contract embodies the entire agreement between the parties and cannot be varied except by written agreement of the undersigned parties, except as expressly provided herein.
- 8.4 *Conflicts.* In the event of any conflict between the terms, conditions, and provisions of this Employment Contract and the provisions of the Board’s policies or any permissive state or federal law, then, unless otherwise prohibited by law, the terms of this Contract shall take precedence over the contrary provisions of the Board’s policies or any such permissive law during the term of the Contract.
- 8.5 *Savings Clause.* In the event any one or more of the provisions contained in this Contract shall, for any reason, be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provision, and this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been included.
- 8.6 *Civic Activities.* The Interim Superintendent is encouraged to participate in community and civic affairs including Chamber of Commerce, civic clubs, governmental committees, and educational organizations. The expense of such activities, subject to advance Board approval, shall be borne by the Eula ISD.
- 8.7 *Medical Examination.* The Interim Superintendent shall have a comprehensive medical examination not less than once every year. A statement certifying to the physical competency of the Interim Superintendent of Schools shall be filed with the Secretary of the Board of Trustees and treated as confidential by the Board, the cost of said medical report to be borne by the district.

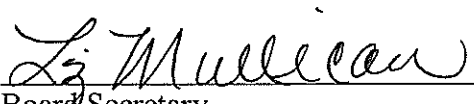
SIGNED AND SEALED at the City of Eula, County of Callahan, and State of Texas this 8th day of Feb., 2010, pursuant to action of the Board of Trustees, taken at a meeting held on the 11th day of January 2010, in accordance with a properly posted agenda that included an item for the hiring of an Interim Superintendent.

EULA INDEPENDENT
SCHOOL DISTRICT


By: 

President, Board of Trustees

ATTEST:



Board Secretary



Interim Superintendent

It is the policy of the Eula Independent School District not to discriminate on the basis of sex, disability, race, color, age, religion, national origin, or status as a veteran in its educational and vocation programs, activities, or employment.

Eula ISD Provides a Drug and Tobacco-Free Workplace