

**RESOLUTION 12-57 Approve Temporary Employee Contract
For Superintendent Elect**

Background: At the March 12, 2012 Board meeting the Board took action on Resolution 12-29 to immediately appoint Barbara Jorgensen Superintendent with a contract to be negotiated upon that appointment. The Board has determined that she has been fulfilling the role of Superintendent since that date and should be compensated based on the Superintendent contract approved in Resolution 12-56.

However, due to law, a Superintendent contract can only encompass a three year length. Since the Superintendent contract approved is for July 1, 2012 through June 30, 2015, it requires that the Board approve a temporary contract to compensate the work done by the Superintendent Elect between March 12 2012 and June 30, 2012 which will be reduced by the compensation paid as Chief Program Officer.

The Board Chair recommends adoption of the following resolution:

WHEREAS a vacancy existed for a Superintendent, and

WHEREAS the Multnomah Education Service District appointed Barbara Jorgensen as Superintendent as of March 12, 2012, under Resolution 12-29; and

WHEREAS the following individual has agreed to the terms and conditions of the temporary employment agreement to commence March 12, 2012 through June 30, 2012.

NOW THEREFORE BE IT RESOLVED that the Multnomah Education Service District Board approves the following temporary employment contract for March 12, 2012 through June 30, 2012:

<u>Name</u>	<u>Position</u>	<u>Length of Contract (# Days)</u>
Jorgensen, Barbara	Superintendent	79, and

BE IT FURTHER RESOLVED that the number of days indicated opposite the above name is a maximum and that an employment contract for less than the specified number of days may be issued by the Board of Directors, but in no case will an employment contract for more than the maximum number of days be issued without prior approval by the Board; and

BE IT FURTHER RESOLVED, that the salary and compensation for the above individual was negotiated upon approval of this appointment and is in accordance with existing negotiated Agreements, applicable Board Policies, and established practices of the District

**EMPLOYMENT AGREEMENT
BETWEEN BARBARA JORGENSEN
AND THE BOARD OF DIRECTORS OF THE
MULTNOMAH EDUCATION SERVICE DISTRICT**

This Temporary Employment Agreement ("Agreement") represents the entire agreement between the Multnomah Education Service District Board of Directors ("BOARD") and Barbara Jorgensen ("SUPERINTENDENT ELECT").

BOARD and SUPERINTENDENT ELECT, for the consideration herein specified agree as follows relating to her employment as Superintendent Elect of Multnomah Education Service District ("MESD").

1. **Superintendent Elect and Board Responsibilities.** SUPERINTENDENT ELECT will be the chief executive officer of MESD. As such, SUPERINTENDENT ELECT will have the primary responsibility for execution of Board policy, whereas Board will retain the primary responsibility for formulating and adopting policy.

2. **Duties.** As chief executive officer, SUPERINTENDENT ELECT will devote her full time, skill, labor, and attention to the operation of MESD, under direction of the BOARD. SUPERINTENDENT ELECT will, within Board policy and subject to Board approval, direct and assign teachers and other employees of MESD under her supervision; organize, reorganize and arrange the administrative and supervisory staff, including instruction and business affairs, as best serves MESD; select all personnel subject to applicable and existing BOARD policy; from time to time suggest regulations, rules and procedures deemed necessary for the well ordering of MESD; communicate and collaborate with all BOARD members; and will in general perform all duties incident to the office of the Superintendent Elect and such other duties as may be prescribed by BOARD from time to time.

SUPERINTENDENT ELECT shall have the responsibility for all personnel matters, including selection, assignment, transfer, and termination of classified personnel and recommendation for non-extension, renewal, non-renewal, and dismissal of licensed personnel subject to BOARD approval. SUPERINTENDENT ELECT shall have the authority to accept the resignation of any licensed staff member and, on behalf of the BOARD, to waive the 60-day notice provision set forth in ORS 342.553.

If SUPERINTENDENT ELECT disagrees with such duties or course of actions prescribed by BOARD, SUPERINTENDENT ELECT will provide a written summary of her disagreement, an explanation of the reasons for her disagreement, and her recommendations to the BOARD. After discussion with SUPERINTENDENT ELECT, BOARD will make ultimate decision regarding SUPERINTENDENT ELECT'S duties and/or course of action.

SUPERINTENDENT ELECT shall have the right to attend all BOARD meetings and all BOARD and citizen committee meetings, serve as an ex-officio member of all BOARD committees and provide administrative recommendations on each item of business considered by each of these groups, unless the subject matter of the meeting includes Superintendent Elect's employment or performance.

All duties assigned to SUPERINTENDENT ELECT by the BOARD should be appropriate to and consistent with the professional role and responsibility of the SUPERINTENDENT ELECT.

3. **Outside Activities.** SUPERINTENDENT ELECT shall devote her time, attention and energy to the business of MESD. However, she may at her discretion, on her own time, serve as a consultant to other districts or educational agencies, lecture, engage in writing activities and speaking engagements and engage in other activities that are of a short-term duration and that are not to the benefit of the MESD or done for the purpose of representing MESD. Such activities shall not adversely impact MESD. SUPERINTENDENT ELECT may choose to use vacation days to perform outside activities. SUPERINTENDENT ELECT shall not derive income from activities that require the use of proprietary information or materials of MESD.
4. **Term.** BOARD hereby employs SUPERINTENDENT ELECT, and she hereby accepts employment, as SUPERINTENDENT ELECT of the MESD for a term commencing March 12, 2012 through June 30, 2012 (subject to termination provisions provided in Section 15 hereof).
5. **Compensation.** BOARD shall pay SUPERINTENDENT ELECT a total of \$44,070.15 during the term of this Agreement. Such salary shall be based upon the total workdays of this term.
6. **Vacation and Fringe Benefits.** SUPERINTENDENT ELECT shall be entitled to all the benefits available to 12-month administrative employees, incident to their employment relationship with MESD, on a pro-rated basis. She shall also be entitled to such benefits as agreed to in this Agreement. Specifically:
 - a. **Vacation.** SUPERINTENDENT ELECT shall be entitled to 8.33 days of paid vacation during the term of this Agreement.
 - b. **Group Life Long Term Disability.** MESD shall purchase a group life long term disability policy that will provide an income to SUPERINTENDENT ELECT equal to sixty percent (60%) of her Agreement salary.
 - c. **Memberships:** MESD shall pay SUPERINTENDENT ELECT's membership charges to the Oregon Association of Education Service Districts, the Council of Oregon School Administrators, the Oregon Association of School

Administrators and other professional groups in which SUPERINTENDENT ELECT believes it is necessary to join in order to maintain and improve her professional skills, as permitted by state law and as approved by the BOARD in the annual budget.

- d. Dues: Recognizing the importance of a strong working relationship between the schools and the community, MESD shall pay dues, membership fees and related expenses for membership in service and civic associations as provided in the BOARD-approved budget.
- e. Tax-Deferred Annuity: SUPERINTENDENT ELECT is authorized to establish a tax-deferred annuity fund with MESD paying an amount equal to five percent (5%) of her Agreement salary for such purpose.
- f. Automobile expense Reimbursement: MESD shall pay SUPERINTENDENT ELECT a \$300-per-month automobile expense reimbursement. SUPERINTENDENT ELECT shall pay all required taxes for personal use of the vehicle.
- g. Rollover and Benefits to 2012-2013 Year: Due to unforeseen circumstances BOARD recognizes that this Agreement did not become effective until June 19, 2012. For that reason, BOARD acknowledges that SUPERINTENDENT ELECT will have the following total accumulated time:

Four (4) Floating Holidays;
Fifty-six (56) Hours Non Contract; and
8.33 Vacation Days granted in this Agreement

SUPERINTENDENT ELECT agrees to use her best efforts to use this accumulated time before June 30, 2012. If, however, SUPERINTENDENT ELECT is unable to use this accumulated time before June 30, 2012, BOARD agrees to allow SUPERINTENDENT ELECT one (1) additional year, up to June 30, 2013 to use this accumulated time.

- 7. Expenses. MESD shall pay or reimburse SUPERINTENDENT ELECT for reasonable expenses approved by BOARD and incurred by SUPERINTENDENT ELECT in the continuing performance of her duties under this Agreement and in accordance with BOARD policy.
- 8. Travel Expenses. MESD shall reimburse SUPERINTENDENT ELECT for all business travel at the rate allowed by the Internal Revenue Service during the term of this Agreement, as provided in BOARD policy.

9. **Professional Licensure.** SUPERINTENDENT ELECT shall hold a valid appropriate license issued by the State of Oregon and be otherwise qualified to serve as SUPERINTENDENT ELECT. Should the SUPERINTENDENT ELECT fail to maintain a valid license, BOARD may immediately terminate this Agreement. Should the SUPERINTENDENT ELECT be on a CAP from TSPC for the MESD, SUPERINTENDENT ELECT will finalize the license before the end of the CAP period identified by TSPC.

10. **Professional Growth of Superintendent Elect.** BOARD encourages the continuing professional growth of SUPERINTENDENT ELECT through her participation, as she might decide in the light of her responsibilities as SUPERINTENDENT ELECT, in:

- a. the operations, programs and other activities conducted or sponsored by local, state and national school administrations and school board associations (e.g. AASA conventions, National Academy for School Executive - NASE - seminars);
- b. seminars and courses offered by public or private educational institutions;
- c. informational meetings with other persons whose particular skills or backgrounds would serve to improve the ability of SUPERINTENDENT ELECT to perform her professional responsibilities for MESD;
- d. visits to other institutions;
- e. BOARD shall reimburse payment to SUPERINTENDENT ELECT for any necessary class fees, workshop fees or other fees related to professional growth opportunities; and
- f. BOARD shall permit a reasonable amount of release time for SUPERINTENDENT ELECT to attend such matters and pay for the necessary fees for travel and subsistence expenses, as approved by the BOARD in the annual budget. Annually the SUPERINTENDENT ELECT shall provide an accounting of time and monies expended for professional growth to the BOARD.

11. **Professional Liability.**

- a. **Hold Harmless.** BOARD agrees that it shall defend and hold harmless and indemnify SUPERINTENDENT ELECT, subject to limitations under Oregon

law (ORS 30.260-30.300), from any and all demands, claims, suits, actions and legal proceedings, including, but not limited to, those brought in state or federal court, before federal, state or local administrative bodies and before the Teacher Standards and Practices Commission, brought against SUPERINTENDENT ELECT in her individual capacity, or in her official capacity as agent and employee of MESD, provided the incident arose while SUPERINTENDENT ELECT was acting within the scope of her employment, excluding criminal litigation and provided such liability coverage is within the authority of the BOARD to provide under Oregon law. Except that in no case will individual BOARD members be considered personally liable for indemnifying SUPERINTENDENT ELECT against such demands, claims, suits, actions and legal proceedings. MESD shall provide SUPERINTENDENT ELECT with an Errors and Omissions Policy that provides coverage equal to that provided members of the BOARD.

- b. Conflict in Defense of Claim. If, in the good faith opinion of SUPERINTENDENT ELECT, a conflict exists in defense of a claim between the legal position of SUPERINTENDENT ELECT and the legal position of MESD, which conflict could potentially prejudice the defense of either MESD or SUPERINTENDENT ELECT, SUPERINTENDENT ELECT may engage counsel to represent her in which MESD will indemnify SUPERINTENDENT ELECT for the costs of legal defense as permitted by Oregon law to a maximum of \$10,000,000.
- c. Adverse Interests. MESD shall not, however, be required to pay any costs of any legal proceedings in the event MESD and SUPERINTENDENT ELECT have adverse interests in such litigation, except as stated in b. above.

12. Personal Protection. In the event that the safety of SUPERINTENDENT ELECT or her family is threatened or otherwise appears in danger because of the performance of SUPERINTENDENT ELECT'S official duties, MESD shall pay reasonable costs incident to the protection of SUPERINTENDENT ELECT and her family. Protection, if required, will be sought first from the regular police authorities.

13. Goals and Objectives. Annually, at the direction of BOARD, BOARD and SUPERINTENDENT ELECT will meet to establish goals and objectives for SUPERINTENDENT ELECT. The goals and objectives will be reduced to writing and adopted by BOARD in a public meeting and will be among the criteria by which SUPERINTENDENT ELECT is evaluated as hereafter provided.

14. Evaluation. BOARD shall annually evaluate in writing the performance of SUPERINTENDENT ELECT, and provide her with a copy of the evaluation. This evaluation shall be reasonably related to the position description of SUPERINTENDENT ELECT, the goals and objectives of MESD for the year and

any other work related tasks. During May of each year, BOARD and SUPERINTENDENT ELECT shall meet in closed executive session to discuss this evaluation and for the purpose of mutual evaluation of the performance of BOARD and SUPERINTENDENT ELECT.

In the event that BOARD determines that the performance of SUPERINTENDENT ELECT is unsatisfactory (other than cause under 15 d.), the BOARD shall describe in reasonable detail in the evaluation the nature or specific instances of unsatisfactory performance and shall include recommendations on areas of improvement. SUPERINTENDENT ELECT shall have the right to make a written response to the evaluation. This response shall be a permanent addition to SUPERINTENDENT ELECT's personnel file. The SUPERINTENDENT ELECT shall have the right to develop with the BOARD a Plan of Improvement to be implemented at an agreed upon date and shall be in effect for up to six months to make agreed upon progress as outlined within the plan.

15. Termination of Employment Agreement. This Agreement may be terminated by:

- a. Mutual Agreement of the Parties.
- b. Retirement or Resignation of Superintendent Elect. SUPERINTENDENT ELECT shall provide BOARD at least 180 days' prior notice by certified mail or at a public meeting of the BOARD of her retirement or resignation.
- c. Disability of Superintendent Elect. BOARD may terminate this Agreement by written notice to SUPERINTENDENT ELECT at any time after SUPERINTENDENT ELECT has exhausted all accumulated sick leave and such other leave as may be available and has been absent from her employment for whatever cause for 90 days immediately following exhaustion of all available leave. All obligations of BOARD, not already vested by operation of law or by this Agreement, shall cease upon such termination. Nothing in this paragraph is meant to derogate the rights available to SUPERINTENDENT ELECT under the Workers' Compensation Law of the State of Oregon.
- d. Discharge for Cause. Cause for discharge is a material and persistent failure by SUPERINTENDENT ELECT to properly perform the responsibilities of her position, which failure continues after written notice to SUPERINTENDENT ELECT of the deficiency. In addition, cause includes, but is not limited to inadequate performance, neglect of duty or breach of this Agreement. Reasons for a proposed discharge for cause shall be given in writing to SUPERINTENDENT ELECT, and SUPERINTENDENT ELECT shall be entitled to appear before the BOARD to respond to the reasons. If SUPERINTENDENT ELECT chooses to be accompanied by legal counsel at such hearing, she shall bear any costs therein involved. Such hearing may be conducted in closed executive session.

In the event that the BOARD terminates this Agreement by paying the amount specified in Subparagraph 15(e) below, which is not otherwise required under this Subparagraph 15(d), the requirement of the hearing before the BOARD shall be waived by SUPERINTENDENT ELECT. The termination will be considered for all purposes, and will be reflected in MESD records, to have occurred under Subparagraph 15(f) of this Agreement rather than under Subparagraph 15(d).

- e. Unilateral Termination by Board. The BOARD may, at its option and by a minimum of 90 days prior written notice to SUPERINTENDENT ELECT, unilaterally terminate this Agreement without cause. In the event of such termination, MESD shall pay to SUPERINTENDENT ELECT, as severance pay, all remaining salary and benefits due to SUPERINTENDENT ELECT under this Agreement. All BOARD-paid benefits shall continue until the termination date of this Agreement unless otherwise agreed to.
- f. Termination with Superintendent Elect's Agreement. The BOARD may propose to terminate this Agreement upon 90 days prior written notice to SUPERINTENDENT ELECT without cause. If SUPERINTENDENT ELECT agrees in writing with this decision, MESD shall pay to SUPERINTENDENT ELECT, as severance, all remaining salary and benefits due to SUPERINTENDENT ELECT under this Agreement. All BOARD-paid benefits shall continue until the termination date of this Agreement unless otherwise agreed to.
- g. Death of Superintendent Elect.

16. Savings Clause. If during the term of this Agreement it is found that a provision of this Agreement is unenforceable under federal or state law, the remainder of this Agreement shall not be affected by such a ruling and shall remain in effect.

17. Choice of Law and Forum. In any dispute concerning the terms of this Agreement, the Parties agree that the law of the State of Oregon shall apply. SUPERINTENDENT ELECT and BOARD further agree to submit any such matter to binding arbitration, and that such arbitration shall be the exclusive remedy for any dispute arising out of this Agreement. SUPERINTENDENT ELECT's agreement to this provision does not apply to any Workers' Compensation rights or remedies which SUPERINTENDENT ELECT may have. The venue for any arbitration hearing and court action related thereto shall be the Circuit Court for the State of Oregon in the County of Multnomah, The Oregon Bureau of Labor and Industries, or the United States District Court for the District of Oregon, Northern Division.

SUPERINTENDENT ELECT

BOARD OF DIRECTORS OF
MULTNOMAH EDUCATION
SERVICE DISTRICT

By: _____
Barbara Jorgensen

By: _____
Harry Ainsworth, Chair
Board of Directors

Witness

By: _____

_____ Date

This Agreement was approved by vote of the BOARD, Resolution _____, at a public meeting duly held on _____ 2012, and has been made part of the minutes for that meeting.