

**MILL CREEK COMMUNITY SCHOOL CORPORATION  
SUPERINTENDENT'S CONTRACT OF EMPLOYMENT**

This Superintendent's Contract of Employment (hereafter "Addendum") supplements the basic teaching contract of James A. Diagostino as Superintendent by the Board of Trustees of the Mill Creek Community School Corporation by consent of the parties in the manner permitted by Indiana Code 20-28-8-6.

**1. Parties to this Contract and Definition of Terms**

The parties to this Contract are the:

- A. "Superintendent" meaning James A. Diagostino; and
- B. "Board" meaning the Board of School Trustees acting as the governing body of the Mill Creek Community School Corporation.
- C. The term "school year" as used in this Addendum means a period beginning on July 1 of one calendar year and concluding on June 30 of the following calendar year.

**2. Employment of Superintendent & Terms of Employment**

The Board employs the Superintendent and the Superintendent agrees to be employed by the Board as the Chief Executive Officer and Chief School Administrator of the Mill Creek Community School Corporation for an initial period beginning on July 1, 2022, and concluding on June 30, 2025, subject to the terms of this Addendum.

The parties agree that the Superintendent shall provide services on two hundred sixty (260) days during each school year. These work days shall be provided in accordance with a schedule of work days established by the Superintendent so as to insure the full and competent performance of the duties established in Paragraph 3 of this Addendum. The two hundred sixty (260) work days shall include sick leave days pursuant to Paragraph 5-B of this Addendum and any other paid leave pursuant to Paragraph 5-C of this Addendum. The Superintendent shall devote the Superintendent's time, attention, and energy to the business of the District.

**3. Duties of the Superintendent**

The Superintendent is responsible for and shall perform those functions as specified in the job description for the position for which the Superintendent is hereby employed, as such may be amended from time to time by the Board. The Superintendent shall be responsible to, and shall be subject to, the direct supervision and evaluation of the Board.

The Superintendent is also responsible for complying with all directives of the Board which are authorized by official Board action.

In addition, the Superintendent shall, during the term of this Addendum, hold and maintain such state licenses and certifications as may be applicable or required, and shall devote his full working time to the performance of his duties as Superintendent. If the Superintendent desires to engage in outside employment or consulting, then he agrees he will not do so without obtaining prior Board approval.

**4. Evaluation of the Superintendent**

The Board will review the Superintendent's performance no less than annually each year. The Superintendent will not receive any raise or increment for the following year if his performance is designated as "improvement necessary" or "ineffective" in any year of this Addendum.

**5. Salary & Benefits**

**A. Salary**

The Superintendent shall be paid the sum of one hundred thirty two thousand and seven hundred twelve dollars (\$132,712) for the annual period of July 1<sup>st</sup> through June 30<sup>th</sup>. The Superintendent shall be paid in twenty-six (26) equal bi-weekly installments on a schedule fixed for all employees of the Corporation. If the Superintendent receives a highly effective or effective evaluation each year, the Superintendent's base salary may be increased but not reduced by the Board during the term of this contract. Approved increases in base salary shall be based upon the Superintendent's performance, demonstrated achievement or other factors justifying the adjustment and shall be retroactive to the beginning of the School year for which the increase is applicable. Any adjustments in base salary under this paragraph shall constitute an amendment to this Contract and shall become a part thereof.

**B. Paid Sick and Personal Leave**

The Superintendent shall have available ten (10) paid days for personal illness and five (5) paid days for personal business each school year. The total unused portion of the annual sick and personal leave allowance shall be added to prior accumulated sick leave days, up to the maximum accumulation permitted for administrators by the Mill Creek Community School Corporation.

**C. Vacation Days and Paid Holidays**

The Superintendent shall be entitled to twenty (20) paid vacation days each school year. The Superintendent shall also be entitled to all paid holidays provided to administrators in the Mill Creek Community School Corporation.

**D. Insurance Coverage and Contribution**

The Board shall credit or pay the Superintendent with an additional salary amount equal to the annual cost of family coverage under the Corporation group medical, dental, and vision insurance plan in effect during the school year, which the Superintendent may, but need not, elect to contribute to the Corporation Section 125 Flexible spending Plan in order to pay for premiums of the corporation group health, dental, and vision plan. The Superintendent, at his election, can use these amounts as follows: (i) fund and pay for the qualified benefits selected under a plan described in section 125 of the Internal Revenue Code (the "Code"), (ii) make salary reduction contributions (elective deferrals) to Code section 403(b) and/or 457 plans, or (iii) paid as additional wages to the electing Superintendent. The insurance benefit shall remain in effect for six (6) months following the Superintendent's retirement in exchange for up to sixty (60) hours of consultation services, as needed, with the new Superintendent.

**E. Term Life Insurance**

The Board agrees to provide the Superintendent a term life insurance policy with a face value equal to three hundred thousand dollars (\$300,000.00). The Superintendent shall contribute \$1.00 annually toward the cost of the premium for such term life insurance.

**F. Section 403(b) and 457(b) Contributions**

The Board shall credit or pay in salary to the Superintendent the maximum annual contributions allowed by the Internal Revenue Service which the Superintendent may, but need not, elect to be contributed to both Internal Revenue Code Section 403(b) and 457(b) plans for each calendar year of employment for the Superintendent.

**G. ISTRF Employee Contribution**

In addition to the other considerations provided to the Superintendent by this paragraph of this Addendum, the Board shall make any contribution to the Indiana State Teachers' Retirement Fund that would otherwise be required to be paid by the Superintendent in accordance with his date of hire. If the date of hire is prior to July 1, 1995 the contribution will be three percent (3%). If the date of hire is on or after July 1, 1995 the contribution will be ten and one-half percent (10.5%). The date of hire is when the Superintendent was assigned a TRF retirement number.

All payments to the Superintendent subject to federal income tax and the Superintendent's contribution to the Indiana State Teachers Retirement Fund shall be included in the Superintendent's salary for purposes of the Indiana State Teachers' Retirement Fund.

**H. Cellular Phone and Internet Device**

The Superintendent is required and it is essential for the performance of the Superintendent's duties to have a cell phone and cell phone service with both voicemail and email capacity and an internet data device. The Board will pay fifty dollars (\$50.00) per month toward the cost of these devices for the Superintendent.

**I. Dues/Membership Fees for Professional Organizations**

The Board agrees to pay not more than one thousand dollars (\$1000.00) per school year toward the cost of memberships in any state or national professional association(s) selected by the Superintendent.

**J. State and National Conferences**

The Board agrees to pay all reasonable expenses (which is determined in the sole discretion of the Board) for the Superintendent to attend state conferences and one national conference to enhance his professional skills and knowledge, provided the Superintendent receives advance approval from the Board to attend such conference(s).

**K. Automobile Compensation**

The Superintendent will receive additional compensation in the amount of \$5910 each contract year for the use of his personal vehicle for school related business travel. This compensation is to be paid in two installments on the last pay in December and the last pay in June.

**L. Other Benefits**

The Superintendent shall be entitled to all other benefits established by the Board for all management employees of the Board in the Mill Creek Community School Corporation. To the extent benefits for other management employees duplicate a benefit specifically provided pursuant to this Addendum, the benefit provided by this Addendum shall be the benefit provided to the Superintendent. This Addendum is further supplemented by the teachers' negotiated agreement between the Board and the Mill Creek Classroom Teachers Association. If any benefit specifically provided by the teachers' negotiated agreement duplicates a benefit provided by this Addendum, the benefit provided by this Addendum shall be provided to the Superintendent.

**6. Extension and Non-Renewal of this Addendum**

The parties agree that this Contract shall automatically be extended one school year on each June 30 effective the next day, i.e. July 1, unless a party gives the other written notice on or before the preceding January 2 that the party does not agree to the extension of this Contract. The parties agree that this shall result in a continuous three (3) year rolling Contract unless one party provides the timely written notice of the other pursuant to this Paragraph or Paragraph 7 of this Contract.

**7. Cancellation of this Addendum**

The parties agree that the three alternative termination provisions set forth in this paragraph shall be the sole and exclusive means of canceling the Superintendent of Schools Basic Contract and this Addendum (hereafter collectively referred to as the "Superintendent's Contracts") prior to their expiration date. Any of the following three alternatives (a, b or c) may be utilized by the Board at the Board's sole discretion to terminate the Superintendent's Contracts before their expiration date:

(a) Termination Option 1--The Board:

- (i) initiates cancellation for cause for one or more of the statutory reasons for cancellation of a teacher contract contained in IC 20-28-7.5-1(b); and
- (ii) gives the Superintendent written notice of its intent to cancel the Superintendent's Contracts for cause and provides the Superintendent the opportunity to have a hearing before the Board in an official executive session at least ten (10) days before the Board meets in a public meeting to vote on the termination.

- (iii) If the Superintendent requests a hearing with the Board under paragraph (a)(ii) herein, and if the Board subsequently votes in a public meeting to approve the termination of the Superintendent's Contracts, the Board will issue written findings that one or more of the statutory reasons for cancellation of a teacher contract contained in IC 20-28-7.5-1(e) exist.
- (b) Termination Option 2 - The Board may elect to cancel the Superintendent's Contract without cause. If the Board elects to cancel the Superintendent's Contract without cause pursuant to this provision, no compensation or benefits which accrue subsequent to the eighteen (18) month anniversary or the maximum allowable under Indiana code 20-28-8-6 of the date such written notice is given shall be owed the Superintendent.

Upon receiving the Board cancellation notice set forth above, the Superintendent has thirty (30) days to request a conference with the Board. If the Superintendent requests a conference with the Board, such request shall be submitted in writing to the Board President. Upon the Board President's receipt of the Superintendent's request for a conference, the Board shall hold a conference with the Superintendent within ten (10) days unless the parties mutually agree otherwise.

If the Board cancels the Superintendent's Contracts pursuant to this provision, the Superintendent shall submit his resignation as Superintendent and teacher effective on the cancellation date and the Board will accept such resignation at its next regularly scheduled meeting. The Superintendent and the Board will refer to the reason for such resignation as "philosophical differences" or such other description as the Board and Superintendent shall mutually agree.

If the Superintendent desires to request that his Superintendent's Contracts be canceled, the Superintendent must give the Board at least sixty (60) days written notice prior to the effective date when such cancellation would become effective.

- (b) Termination Option 3-The School Board receives written notice from the Division of Professional Standards that the Superintendent no longer holds a license required for the position of Superintendent of Schools from the Division of Professional Standards of the Indiana Department of Education or receives a certified copy of a court document indicating that the Superintendent was convicted of an offense listed in Indiana Code 20-28-5-8(c). In the event one of these circumstances would occur, the Board may terminate the Superintendent's Contracts immediately upon providing written notice to the Superintendent. The Superintendent agrees that s/he waives all statutory and constitutional due process

procedures that s/he would otherwise be entitled to receive by law in the event the Board has to terminate the Superintendent's Contracts pursuant to this provision.

8. **Defense and Indemnification for Acts as Superintendent**

The Board agrees to provide the Superintendent with legal counsel selected and paid for by the Board and to defend and indemnify and hold the Superintendent harmless for all claims, demands and judgments arising out of the performance of the duties within the scope of his employment as set out in paragraph 3 of this Addendum to the fullest extent permitted by law. The provisions of this paragraph exclude criminal conduct or any other conduct that is outside the scope of the superintendent's duties.

9. **Vesting**

The Board contributions (Employer contributions) made to the Superintendent's account with the 401(a) and 403(b) plans established by Mill Creek Community School Corporation shall vest in accordance with the vesting requirements for administrators in the Mill Creek Community School Corporation.

10. **Entire Contract of Parties**

This Addendum contains all the agreed terms of employment of the Superintendent by the Board and will not be modified except in a written document making specific reference to this Addendum and the specific provision to be modified. Modifications to this Addendum shall be approved by both parties in the same manner that this Addendum was approved.

If required for purposes of compliance with a standard or request of the State Board of Accounts of the State of Indiana, the parties agree that they will execute one or more one-year or multi-year standard teacher contracts to implement the terms of this Addendum. The parties further agree that to the extent this Addendum is inconsistent with the Superintendent's basic teacher contract it replaces, the terms of this Addendum shall control.

11. **Contract as a Public Record**

The parties agree that this Addendum is a public record under the Indiana Public Records Law, Indiana Code 5-14-3, and Indiana Code 20-28-6-2 pertaining to teacher contracts generally.

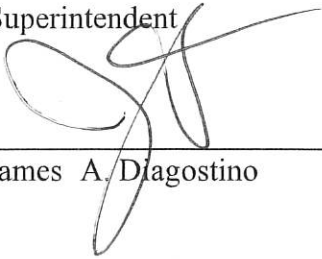
Agreed this 11<sup>th</sup> day of January, 2023.

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IN WITNESS WHEREOF, we hereunto set our hands and seals this 11th day of January, 2023.

Superintendent



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James A. Diagostino

Board of School Trustees



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Nic Allen, President




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Pat Flanigan, Vice-President



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Tom Whitaker, Secretary



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Missy Branscum, Member