

NORTH CAROLINA

DURHAM COUNTY

SUPERINTENDENT'S CONTRACT

THIS AGREEMENT, made and entered into this _____ day of _____, by and between the Durham Public Schools Board of Education, hereinafter referred to as "Board," and Dr. Carl E. Harris, hereinafter referred to as "Superintendent";

WHEREAS, the Board desires to provide the Superintendent with a written employment contract in order to enhance administrative stability and continuity within the schools which the Board believes generally improves the quality of its overall educational program; and

WHEREAS, the Board and the Superintendent believe that a written employment contract is necessary to describe specifically their relationship and to serve as the basis of effective communication between them as they fulfill their governance and administrative functions in the operation of the education program of the schools;

NOW, THEREFORE, the Board and the Superintendent, for the consideration herein specified, agree as follows:

1. **TERM.**

The Board, in consideration of the promises, herein contained, of the Superintendent, hereby employs Dr. Carl E. Harris as Superintendent of Schools for a term commencing July 1, 2006 and ending June 30, 2010.

The Board may by specific action and with the consent of the Superintendent extend the termination date of the existing contract to the extent permitted by state law.

2. **PROFESSIONAL LICENSE AND RESPONSIBILITIES OF SUPERINTENDENT.**

A. **LICENSE.** The Superintendent shall furnish throughout the term of his employment as Superintendent a valid and appropriate license to act as Superintendent as prescribed by the laws of this state and by the regulations of the State Board of Education.

B. DUTIES. The Superintendent shall have charge of the administration of the schools under the direction of the Board. He shall be the chief executive officer of the Board; shall serve as secretary to the Board; shall direct and assign teachers and other employees of the schools under his supervision; shall have freedom to organize, reorganize and arrange the administrative and supervisory staff, including instruction and business affairs, as best serves the Durham Public School System, provided that the Superintendent shall consult with and advise the Board prior to implementing administrative transfer of school principal(s); shall select all personnel subject to the approval of the Board; shall have the authority to immediately accept resignations of personnel, for and on behalf of the Board; shall from time to time suggest regulations, rules and procedures deemed necessary for the orderly administration of the school district; and in general perform all duties incident to the office of the Superintendent and such other duties as may be prescribed by law or by the Board from time to time. The Board, individually and collectively, promptly shall refer criticisms, complaints, and suggestions called to its attention to the Superintendent for appropriate study, recommendation, and response and shall refrain from individual interference with the administration of school policies except through Board action. Individual Board members shall not direct or require the Superintendent or other District employees to prepare reports derived from an analysis of information in existing District records or to create a new record compiled from information in existing records. Directives to the Superintendent or other employees regarding the preparation of reports shall be by Board directive. This is an agreement for the performance of professional services as superintendent by the Superintendent, who shall not be assigned to any other position or have his duties reassigned to others without his consent.

3. COMPENSATION.

A. The annual salary of the Superintendent shall be as provided for by the State Salary Schedule for Superintendents adopted by the State Board of Education. In addition to the salary paid the Superintendent from state funds, the Board agrees to supplement the Superintendent's state salary from local funds for an initial aggregate salary in the amount of One Hundred Eighty-Five Thousand Dollars (\$185,000.00) per year. The aggregate salary paid the Superintendent from state and local funds shall be increased by the amount of five percent (5%) annually, effective July 1, 2007. At no time shall the annual aggregate salary or the local salary supplement of the Superintendent be decreased during the term of this contract.

B. In addition to the aggregate salary set forth in Section 3(A) above, the Board agrees to pay the Superintendent an additional performance bonus each fiscal year of up to five percent (5%) of his aggregate salary for that fiscal year, based on the Board's subjective evaluation of Superintendent's performance as provided in Section 11. Payment of this performance bonus shall be in the sole discretion of the Board and shall be paid only upon a 2/3rds vote of the Board. The Board shall vote on this performance bonus and pay any bonus awarded by June 30 of each year, beginning in 2007. Failure of the Board to vote on this performance bonus by June 30 in any year shall not entitle the Superintendent to any additional compensation.

C. The aggregate annual salary paid the Superintendent from state and local funds shall be paid in equal monthly installments in accordance with the rules of the Board governing payment of other professional employees of the school administration unit.

4. VACATION AND OTHER BENEFITS.

A. The Superintendent shall receive annual leave and sick leave as provided by state law and North Carolina State Board of Education regulations. Annual leave and sick leave shall be taken in accordance with Board policy and State Board of Education regulations. Vacation and sick leave may be carried forward as provided by law and Board policy, and payment for any accrued and unused vacation leave at the termination of this Contract shall be made in accordance with State Board of Education regulations and Board policy. In order to provide essential services to the Board which might not otherwise be provided, the Superintendent may not be able to use all of his earned vacation in a year and/or be unable to schedule vacation at a desirable time. In consideration of such circumstances, at the Superintendent's election the Board annually on June 30 shall compensate the Superintendent in an amount equal to up to 10 vacation days accumulated beyond the state limit, computed at 1/227 of the Superintendent's aggregate annual salary.

B. Except as otherwise provided herein, the Superintendent shall receive the same life, health and dental coverage, terminal pay, and other personal benefits accorded to other professional employees of the school administrative unit as provided by law. In addition, the Board shall pay the full premiums for employee/child/family coverage and for any one of the health, vision, and dental insurance programs made available to employees under the "cafeteria benefits plan" approved by the Board.

C. The Board, at the request of the Superintendent and in accordance with state law, shall withhold and transfer an amount of salary annually or semi-annually or monthly, said amount to be determined by the Superintendent, from the Superintendent's annual salary into any annuity or retirement program chosen by the Superintendent. The Board shall match the Superintendent's contribution to any such tax-favored annuity or retirement program, with the

Board's matching contribution being subject to an annual limit of six percent (6%) of the Superintendent's aggregate annual salary, or any lesser limitation imposed by law.

D. The Board shall pay the Superintendent's membership charges for membership in up to seven (7) professional or civic organizations as the Superintendent feels are necessary to maintain and improve his professional skills, civic involvement, or to advance the mission of the Durham Public Schools Board of Education.

E. The Superintendent may utilize any "cafeteria benefits plan" approved by the Board, as permitted under 27 U.S.C. § 125, or any successor plan or statute, to the fullest extent allowed by law or the plan, to receive any of the benefits provided in this contract.

F. The Board further agrees to pay the Superintendent's contribution to the North Carolina Teachers and State Employees Retirement System, provided however, that such contribution shall not exceed six percent (6%) of his annual aggregate salary.

5. PROFESSIONAL GROWTH OF SUPERINTENDENT.

The Board expects the Superintendent to continue his professional development and expects him to participate in relevant learning experiences. The Superintendent should attend appropriate professional meetings at the local and state level, and out-of-state meetings with the prior approval of the Chairman of the Board. The actual expenses of said attendance will be paid from the current operating funds of the Durham Public Schools System in an amount and manner prescribed by Board policy. The Superintendent shall file itemized expense statements with the finance officer for reimbursement of these expenses in accord with Board Policy. Requests for reimbursements of actual expenses in excess of Board approved per diem must be approved by the Chairman of the Board.

6. EXPENSES.

The Board shall reimburse the Superintendent for reasonable expenses incurred by the Superintendent on behalf of the Board in the amount and manner prescribed by Board policy. The Board recognizes that the Superintendent shall incur such expenses from time to time as the Board's representative in the pursuit of educational excellence, private funding, grants and for other reasons. The Superintendent shall file itemized expense statements with the finance officer for reimbursement of these expenses. The Chairman of the Board shall have authority to review and approve such reimbursements. The Chairman of the Board shall report such reimbursements as she has approved to the Board.

7. TRANSPORTATION.

The Board shall provide the Superintendent a monthly travel allowance in the amount of Seven Hundred Fifty Dollars (\$750.00) per month. The Board shall reimburse the Superintendent for out-of-county travel in his personal vehicle at the same rates as provided for all employees. In lieu of reimbursement for out-of-county travel, the Superintendent may use a Board-owned vehicle for such out-of-county travel. Additionally, the Board shall pay the Superintendent \$100.00 per month in additional salary in exchange for the Superintendent purchasing, maintaining and carrying a cell phone to allow him to be available as needed to perform his duties as superintendent. This additional salary shall not be considered a part of the annual aggregate salary for calculating salary increases, performance bonuses or for any other provision of the contract.

8. PROFESSIONAL LIABILITY.

The Board agrees that it shall defend, hold harmless, and indemnify the Superintendent from any and all demands, claims, suits, actions and legal proceedings brought against the Superintendent in his individual capacity, or in his individual 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; and provided further, that such liability coverage is within the authority of the Board to provide under state law. The Board shall provide indemnity from liability as set forth above for all claims made and occurrences throughout the term of this contract and any extensions thereof. In no case will individual board members be considered personally liable for indemnifying the Superintendent against such demands, claims, suits, actions and legal proceedings.

9. MEDICAL EXAMINATION AND DISABILITY.

A. MEDICAL EXAMINATION. The Superintendent hereby agrees to have an annual medical examination paid for by the Board. A statement from a licensed physician of the Superintendent's choice, certifying to the physical competency of the Superintendent to fulfill his duties and responsibilities, shall be filed with the Chairman of the Board and treated as confidential information by the Board, and if the Board deems it necessary, the Superintendent agrees to authorize his physician to provide the Board with a copy of the complete results of his medical examination. In the event of illness, the Superintendent, upon request by the Board, shall furnish additional written medical records to the Board and these shall be treated as confidential information.

B. DISABILITY. If the Superintendent is unable to perform his essential functions by reason of disability, and efforts to reasonably accommodate his disability do not enable him to perform his essential functions, and if the disability exists for a period of more than ninety (90) days beyond the period of time which the Superintendent would have been entitled to take as sick leave or vacation leave, or both, the Board may, at its option, terminate this agreement whereupon the respective duties, rights, and obligations hereof shall terminate. The Board will cooperate fully with the Superintendent in his application for disability benefits.

10. EVALUATION.

The Board shall provide the Superintendent with periodic opportunities to discuss Superintendent-Board relationships. Prior to June 30 of each year, the Board will provide the Superintendent with a written annual evaluation of his performance. The evaluation of the Superintendent shall at all times be conducted in closed session, and the evaluation and information concerning the evaluation, of whatever nature, shall be considered confidential information as provided by law. The evaluation format and procedures shall be in accordance with the evaluation instrument selected by the Board in consultation with the Superintendent, and in accordance with the Board's policies, and state and federal law. In the event the Board, after consulting with the Superintendent, deems that the evaluation instrument, format and/or procedure is to be modified by the Board and such modifications would require new or different performance expectations, the Superintendent shall be provided a reasonable period of time to demonstrate such expected performance before being evaluated. As part of that evaluation the Board shall review and consider whether to award a performance bonus as provided in Section 3(B) above, and the Board shall consider whether to extend the term of this contract to the extent allowed by law.

11. CONSULTING AND OUTSIDE EMPLOYMENT.

The duties and responsibilities of the Superintendent require full-time employment and frequently require that 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 Durham Public Schools School System. The Board does recognize that certain outside employment may have a beneficial impact on the Superintendent's professional growth or may not interfere with the Superintendent's performance of his duties and responsibilities. Thus, the

Board grants to the Superintendent, subject to Chair approval as to the time commitment, the opportunity to teach or serve as an adjunct professor or in some other capacity at the college or university level on a part-time basis. In addition, the Superintendent may accept private consulting and speaking engagements and may accept appointments to foundations, boards or commissions that do not interfere with the Superintendent's performance of his duties under this agreement. The Superintendent will take annual leave while performing any private consulting during normal weekday work hours. 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 year.

12. CONFLICT OF INTEREST PROHIBITED.

The Superintendent acknowledges that he has read and understands the conflict of interest statutes of the State of North Carolina and agrees to comply with these statutes and any other State laws or Board policies relating to conflicts of interest.

13. TERMINATION.

Throughout the term of this contract the Superintendent shall be subject to discharge for good and just cause as provided by North Carolina General Statute § 115C-274, provided, however, that the Board does not arbitrarily or capriciously call for his dismissal and that the Superintendent shall have the right to written charges, a fair hearing before the Board, and ten (10) days' written notice of said charges and hearing. At any said hearing before the Board, 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 relevant to the issue. A transcript of the record of the proceedings before the Board shall be made available without charge to the Superintendent from any action taken by the Board. If the Superintendent chooses to be accompanied by legal counsel at the hearing before the Board, he will assume the cost of his legal expenses.

14. UNILATERAL TERMINATION BY THE BOARD.

The Board may, at its option, unilaterally terminate this contract. In the event of such termination the Board shall pay to the Superintendent, as severance pay, the aggregate salary he would have earned pursuant to Section 3A of this Agreement, from the actual date of termination to the ending date set forth in Section 1 of this Agreement or any extensions hereof, with no reductions or setoffs of any kind or nature. The amount due the Superintendent shall be paid in lump sum(s), or as may be agreed by the parties. In the event that the Board offers to terminate the contract by paying the amount specified herein, the right to a hearing before the Board, as specified in Section 14 above, and the right to appeal the Board's action shall be considered waived by the Superintendent.

15. BENEFITS OPTION.

As an inducement to forego retirement or other options which may become available to him, the Board will enable the Superintendent to select from among those benefits provided herein (other than those mandated by State law or regulation) and to transfer the costs of those benefits, to be received by him instead as additional salary compensation in lieu of those benefits. Any additional salary the Superintendent receives through exercising this option shall not be considered a part of his aggregate salary for any other provision of this contract.

16. NOTICE OF NONRENEWAL.

By no later than the regular meeting date of the Board in April immediately preceding the expiration of this Agreement, the Board shall complete its final evaluation of the Superintendent's performance under the terms of this Agreement and shall formally inform the Superintendent of its intentions concerning renewal of his contract as Superintendent of Schools for an additional term. Failure of the Board to complete its final evaluation of the

Superintendent and to notify the Superintendent of its intention concerning contract renewal shall not entitle the Superintendent to any additional term of employment.

17. AMENDMENT.

The Agreement may be amended during its term by mutual written consent of the Board and the Superintendent. Any such amendment shall be in writing, approved by official action of the Board, and accepted in writing by the Chairman of the Board and the Superintendent.

18. SAVINGS CLAUSE.

If, during the term of this contract, it is found that a specific clause of the contract is illegal under federal or state law, the remainder of the contract not affected by such a ruling shall remain in force.

19. LAW.

This Agreement shall be governed by, construed and enforced in accordance with the law of the State of North Carolina.

20. FILING.

A copy of this contract shall be filed with the Superintendent of Public Instruction in North Carolina before the Superintendent is eligible to assume office.

21. ENTIRE AGREEMENT.

The parties hereto agree that this instrument contains the entire agreement between them as of this date, and that it has not been induced by either party by any representations, promises or undertakings not expressed herein, and that there are no collateral agreements, stipulations, promises or understandings whatsoever by the respective parties in any way affecting the subject matter of this contract which are not expressly contained in this instrument.

IN TESTIMONY THEREOF, the Durham Public Schools Board of Education has approved this Agreement and caused this instrument to be executed in its name by its Chairman, and duly attested to, all by order and resolution of the Board, and Dr. Carl E. Harris has accepted this Agreement and has hereunto set his hand and seal, this the day and year first above written.

SUPERINTENDENT

**DURHAM PUBLIC SCHOOLS BOARD
OF EDUCATION**

_____(SEAL)
Dr. Carl E. Harris

Gail Heath, Chairman

ATTEST:

Stephen Martin, Vice-Chairman

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public, do hereby certify that Gail Heath personally appeared before me, with whom I am personally acquainted, who, being by me duly sworn, says that Stephen Martin, is Vice-Chairman of the Board and that she is Chairman of the Durham Public Schools Board of Education, the corporation described in and which executed the foregoing and annexed instrument; that she knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, that the name of the corporation was subscribed thereto by said Chairman and that said Chairman and Vice Chairman subscribed their names thereto and said common seal was affixed, all by order of the members of the Durham Public Schools Board of Education, and said instrument is the act and deed of said corporation.

Witness my hand and official seal, this the ___ day of _____, 2006.

(Official Seal)

Notary Public

My Commission expires _____

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public for said County and State, do hereby certify that Dr. Carl E. Harris personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal this the ___ day of _____, 2006.

(Official Seal)

Notary Public

My Commission expires _____