

**EMPLOYMENT AGREEMENT
INTERIM ASSISTANT SUPERINTENDENT
PUPIL SERVICES AND SPECIAL EDUCATION**

This Employment Agreement ("Agreement") is effective on the ____ day of _____, 2012 between the Mt. Diablo Unified School District ("District") acting through its Governing Board ("Board") and _____ ("Interim Assistant Superintendent") and is entered into in accordance with Education Code §35031.

1. TERM.

The District hereby employs the Interim Assistant Superintendent beginning on the ____ day of _____, 2012 and continuing through June 30, 2013.

2. DUTIES AND RESPONSIBILITIES.

The Interim Assistant Superintendent shall perform all duties and exercise all powers as prescribed by all applicable laws, rules and regulations of the State of California and the District. The powers and duties of the Interim Assistant Superintendent, Pupil Services and Special Education shall be as described in a job description or resolution adopted by the Board, and may be amended unilaterally by the Board from time to time, or by the Superintendent at the direction of the Board, in order to best fulfill the needs of the District. Such duties and responsibilities, as amended from time to time, shall be attached to this Agreement as Exhibit A.

3. EVALUATION.

The District's Superintendent shall evaluate and assess the performance of the Interim Assistant Superintendent during the term of this Agreement. The evaluation shall be documented no later than May, 2013 and shall include an assessment of the performance of the Interim Assistant Superintendent as reasonably related to the duties described in this Agreement, as assigned to him/her by the Board and the Superintendent, and performance goals and objectives as determined by the Superintendent.

4. SALARY.

The Interim Assistant Superintendent's annual salary, including payment for prior experience and a stipend for his/her most advanced degree, shall be \$149,648.98.

Following a majority vote of the Board, the Interim Assistant Superintendent's salary may be increased at any time in such amount as may be determined by the Board.

The Interim Assistant Superintendent's salary shall be paid in twelve (12) equal payments with the District making the ordinarily required contributions for STRS/PERS, unemployment insurance, workers compensation, etc.

5. FRINGE BENEFITS.

The Interim Assistant Superintendent shall receive such health and welfare benefits and increments as are granted to the District's management personnel.

6. TRANSPORTATION.

The Interim Assistant Superintendent shall have his/her transportation allowance included as part of his/her salary with the understanding that mileage reimbursement cannot be claimed unless he/she travels one hundred (100) miles or more one way from his/her office location in the District. He/she shall be reimbursed for mileage outside of the radius of one hundred (100) miles from the Interim Assistant Superintendent's office in the District according to the policy governing such rate of reimbursement to other management personnel. The District, upon prior approval of the Superintendent, shall pay for other actual and necessary expenses incurred in the performance of the Interim Assistant Superintendent's duties, such as attendance at meetings and conferences.

7. WORK YEAR/VACATION.

The Interim Assistant Superintendent shall be required to render twelve (12) months of full, regular service to the District for the period covered by this Agreement, except that he/she shall be entitled to twenty-four (24) working days of annual vacation with pay, exclusive of holidays. The Interim Assistant Superintendent shall follow all District policies respecting use and accrual of vacation days. The Interim Assistant Superintendent may be paid for unused accrued vacation at the end of the fiscal year, providing there is a minimum of twenty-four (24) accrued days. The Interim Assistant Superintendent may exercise this option at any time of any given year via signed letter to the Payroll Manager of the District requesting payment for unused accrued vacation as long as he/she has accrued the stipulated number of days. Upon termination of this Agreement, the Interim Assistant Superintendent shall be entitled to compensation for unused accrued vacation days at his/her then current salary rate, provided that under no circumstances shall the Interim Assistant Superintendent accrue more than forty (40) days of vacation.

8. HOLIDAYS.

The Interim Assistant Superintendent shall receive the following holidays: Labor Day, Veteran's Day, Thanksgiving Day and the day after, Christmas Day, a winter recess day, New Year's Day, Dr. Martin Luther King, Jr. Day, Lincoln's Birthday, Washington's Birthday, a spring recess day, Memorial Day, Independence Day, and any additional holidays designated by the Board.

9. SICK LEAVE.

The Interim Assistant Superintendent shall be permitted to carry forward any sick leave previously earned. Under this Agreement, the Interim Assistant Superintendent shall continue to accrue sick leave at the rate of one day per month, which may be carried forward from year to year.

10. MEDICAL EXAMINATIONS.

The Interim Assistant Superintendent agrees to undergo a comprehensive medical examination once during the term of this Agreement. A statement respecting the Interim Assistant Superintendent's physical ability to perform his/her regular duties shall be obtained from the physician and provided to the District Superintendent, who shall keep the statement confidential. The cost of said medical examination and report will be paid by the District if the Interim Assistant Superintendent's medical coverage is not adequate to cover all costs incurred.

11. **TERMINATION OF CONTRACT.**

A. Mutual Consent.

This Agreement may be terminated at any time by mutual consent of the District and the Interim Assistant Superintendent.

B. Termination of Status as a Certificated/Classified Employee.

If the Interim Assistant Superintendent's status as a certificated/classified employee of the District is terminated in accordance with applicable provisions of law, this Agreement shall automatically terminate on the date thereof.

C. Termination of Interim Assistant Superintendent for Cause.

The Superintendent's status as Superintendent and all of the Interim Assistant Superintendent's rights under this Agreement may be terminated by the District at any time for, but not limited to, breach of contract, any ground enumerated in the Education Code for the loss of a credential/classification, or the Interim Assistant Superintendent's failure to perform his/her responsibilities as set forth in this Agreement, as defined by law, or as specified in the Interim Assistant Superintendent's job description, as in effect and as modified from time to time. If this Agreement is terminated for cause, all compensation and benefits provided hereunder shall cease as of the date of termination.

D. Early Termination.

1. By Interim Assistant Superintendent.

The Interim Assistant Superintendent shall have the right at any time to provide notice of his/her intention to terminate this Agreement and to perform no further duties thereunder, provided that Interim Assistant Superintendent shall give such notice to the Board at least forty-five (45) days prior to the effective date of such termination. The Interim Assistant Superintendent shall be entitled to receive no additional compensation or benefits, other than as required by law, on the effective date of such termination.

2. By District.

The District shall have the power, notwithstanding any other term or provision of this Agreement, to terminate the employment of the Interim Assistant Superintendent, without cause, prior to the expiration of this Agreement. Should the District exercise said option to terminate the employment of Interim Assistant Superintendent without cause, the District shall pay to the Interim Assistant Superintendent upon the effective date of termination an amount equal to one-half of the value of his remaining compensation which would be provided to the Interim Assistant Superintendent under this Agreement over the balance of the term of this Agreement, but not to exceed a total of nine (9) months of compensation, and shall provide health and welfare benefits for a period equal to one-half of the remaining term of this Agreement not to exceed a total time of nine (9) months . The Interim Assistant Superintendent agrees that, should the

District exercise this option, such payment shall fully compensate him/her for any contract damages to which the Interim Assistant Superintendent would otherwise be entitled.

E. Automatic Expiration of Term.

This Agreement shall automatically expire at the close of business on June 30, 2013.

**12. AUTOMATIC ELEVATION TO ASSISTANT SUPERINTENDENT ON JULY 1, 2013
BASED UPON SATISFACTORY EVALUATION.**

Immediately upon expiration of this Agreement, the Interim Assistant Superintendent will be awarded a two-year contract as Assistant Superintendent, Pupil Services and Special Education on July 1, 2013 provided that he/she receives a satisfactory performance evaluation. His/her evaluation shall be completed and documented by _____, 2013. Upon documentation of a satisfactory performance evaluation, the parties shall negotiate a new contract for the position of Assistant Superintendent, Pupil Services and Special Education.

13. GENERAL PROVISIONS.

A. Outside Professional Activities.

By prior approval of the District, the Interim Assistant Superintendent may undertake for consideration outside professional activities, including, but not limited to, consulting, speaking and writing, so long as such outside professional activities do not, in the District Superintendent's sole judgment, interfere with the Interim Assistant Superintendent's performance of his/her duties. The Interim Assistant Superintendent's outside professional activities shall not occur during work hours. In no event will the District be responsible for any expenses intended to the performance of such outside activities.

B. Applicable Law.

This Agreement shall be subject to all applicable laws of the State of California, to the rules and regulations of the State Board of Education, and to the lawful rules and regulations of the Board of the District as such rules and regulations apply to the Interim Assistant Superintendent. Said laws, rules and regulations in effect as of the date of the execution of this Agreement, and those enacted thereafter, are hereby made a part of the terms and conditions of this Agreement.

C. Agreement.

This Agreement contains the entire Agreement and understanding between the parties. It supersedes and replaces all prior agreements between the parties. There are no oral understandings, terms or conditions and neither party has relied upon any representation, express or implied, not contained in this Agreement.

D. Amendment.

This Agreement may be amended at any time during the term of the Agreement. However, such amendment shall be in writing and is effective only upon the mutual

consent and written approval of the Interim Assistant Superintendent and the Board, with the Board acting by a majority vote.

E. Severability.

If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

Sherry Whitmarsh, President

Linda Mayo, Vice President

Gary Eberhart, Member

Cheryl Hansen, Member

Lynn Dennler, Member

I hereby accept this offer of employment and agree to comply with the conditions thereof and to fulfill all the duties of position of Interim Assistant Superintendent of the Mt. Diablo Unified School District.