

Gilbert Unified School District #41

SUPERINTENDENT'S EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT is made and entered into by and between the Governing Board (the "Board" or "Governing Board") of the Gilbert Unified School District #41, a political subdivision of the State of Arizona (the "District") and Shane McCord ("Superintendent"):

WHEREAS, the Governing Board desires to provide for the orderly administration of the District's employees and schools, to maintain and continuously improve the quality of the District's overall education program, and to employ Superintendent to fulfill these and other functions as more specifically set forth herein; and

WHEREAS, Superintendent desires to perform such functions upon the terms and conditions more fully set forth herein;

NOW THEREFORE, the Governing Board and Superintendent, in consideration of the foregoing, agree as follows:

1. **Term.** The Board employs Superintendent, and Superintendent accepts employment as Superintendent, a full-time position, for a term commencing on October 2, 2017 and ending June 30, 2020.
2. **Professional Certification.** Superintendent shall hold and maintain throughout the term(s) of this Agreement a valid Superintendent's Certificate issued by the State of Arizona, which Certificate shall be on file in the District at all times.
3. **Superintendent's Duties and Responsibilities.** Superintendent shall be the District's Chief Executive Officer. Superintendent shall be responsible to the Board and shall be responsible for the general administration of the school system. Superintendent shall be responsible for accurate and timely communication with the Board regarding issues impacted or affecting the District. Superintendent's duties and responsibilities shall further include, but not be limited to, the following:
 - 3.1 Those set forth in Board Policy CB, "School Superintendent;" Board Policy CBA, "Qualifications and Duties of Superintendent (Performance Responsibilities);" and Board Policy CBCA, "Delegated Authority," as those Policies currently exist and as may be revised during the term of this Agreement;
 - 3.2 In cooperation with the Board, Superintendent will be responsible for the implementation of the mission, vision and the educational goals for the District;
 - 3.3 The development, implementation and evaluation of a strategic plan for the District that is consistent with the District's educational goals and that optimizes student learning, facilities use and expenditures. Superintendent shall develop the strategic plan in consultation with the Board; and
 - 3.4 The performance of such other reasonable duties or tasks as the Board may assign or delegate to Superintendent from time to time.

4. **Compensation.**

4.1 During the 2017-2018 fiscal year, the District agrees to pay Superintendent an annual base salary of \$189,000.00 (pro-rated amount for remainder of the 2017-2018 fiscal year shall be \$141,750.00). During the second and third fiscal years of this Agreement, Superintendent's annual base salary shall be increased by the same percentage as the Board approves for other certificated District administrators. An adjustment in Superintendent's annual base salary shall not extend the length of this Agreement. Superintendent's annual base salary shall be payable in regular installments at the same time and in the same manner as other 12-month salaried administrators of the District, except for the performance based pay described in paragraph 4.3 below.

4.2 Superintendent shall be paid an additional stipend of \$6,000.00 during the fiscal year in which he earns his doctorate degree if earned during the term of this Agreement. The stipend amount shall then be incorporated into Superintendent's annual base salary for the subsequent fiscal year(s) of this Agreement.

4.3 In accordance with A.R.S. § 15-341(40), the parties agree that during the entirety of this Agreement, five (5%) percent of Superintendent's annual base salary (as set forth in paragraph 4.1 herein) shall be designated as "performance based pay", which may be earned in addition to Superintendent's annual base salary. Attached to this Agreement and incorporated herein by reference as Exhibit A is the Performance Pay Plan that has been approved by the Board contemporaneously with this Agreement.

4.4 Should Superintendent believe that there is a mistake in Superintendent's annual base salary, Superintendent shall have thirty (30) working days of the date this Agreement is signed or initial payment is made to notify the District of the mistake. Should Superintendent not notify the District within these 30 days, Superintendent waives the right to additional amounts under the Agreement. If Superintendent has received more money than Superintendent is entitled to receive for work performance, or if Superintendent inadvertently receives a benefit at no cost for which Superintendent would ordinarily be required to pay, Superintendent shall be required to repay any amount erroneously paid to Superintendent or reimburse the District for the value of the benefit erroneously received.

5. **Work Calendar/ Per Diem.** Superintendent agrees to devote his time, skill, labor and attention to the duties of Superintendent of the District and shall follow the established work schedule of other administrators in the District. For purposes of any per diem payments made or payable under this Agreement, the per diem rate shall be based upon the total paid contract days set forth in the then current Board Calendar. For 2017-2018, the total paid contract days is 260.

6. **Medical/Health Insurance Benefits.** The District shall provide Superintendent, at District expense, with the medical/health insurance benefits provided to other 12-month certificated administrators under the District's group health insurance plan in effect during the term of this Agreement.

7. **Life Insurance Benefit.** The District shall pay the premiums for Superintendent during each fiscal year of this Agreement for a Term Life Insurance Policy with a death benefit of

\$750,000.00. Superintendent, or Superintendent's Trust, shall be the Policy owner and have control over the Policy value and have the right to name the beneficiary of the Policy. The District shall report the contributions on Superintendent's W-2 form at the end of each calendar year. If Superintendent desires an increased amount of this life insurance benefit, he shall pay the premium difference.

8. **Disability Insurance Benefit.** Throughout the term of this Agreement, the District shall furnish, at District expense, a disability insurance policy to provide Superintendent with short-term disability income protection, in the event of a qualifying disability. The policy shall provide coverage commencing not more than thirty (30) days after inception of the disability and shall cover a minimum of 75% of Superintendent's annual base salary then in effect during the disability, and continuing until Superintendent qualifies for long term disability benefits through the Arizona State Disability program.
9. **Professional Liability Coverage.** The Board agrees that it shall provide indemnification and liability insurance for Superintendent under the District's insurance policy. Such insurance policy shall provide coverage to Superintendent from any and all demands, claims, suits, actions and legal proceedings brought against Superintendent in his individual capacity or in his official capacity as an agent under employment of the District, provided the incident arose while Superintendent was acting within the scope of his employment. The indemnification provided for in this paragraph shall extend to a period of six years beyond the termination of this Agreement.
10. **Vacation.** Superintendent shall be entitled to 22 days of vacation time during each fiscal year of this Agreement, exclusive of legal holidays. Vacation time may be accumulated during the term of this Agreement. At the option of Superintendent, up to 11 earned and unused vacation days may be paid out by the District at any time during each fiscal year of this Agreement. Upon his resignation, retirement or non-renewal (but not his termination for cause), Superintendent shall be entitled to be paid his then per diem rate of pay for all earned but unused vacation days up to a maximum of 60 days. Should Superintendent be renewed for additional terms of employment at the expiration of this Agreement, Superintendent shall carry forward up to 15 days and be paid at the per diem rate of pay for all other earned and unused vacation days to a maximum of 60 days.
11. **Holidays.** Superintendent shall be entitled to the same holidays as other professional staff members.
12. **Professional Memberships; Community Involvement.** Superintendent shall, at the District's expense, maintain annual memberships in organizations that are relevant to the District. A fund of \$3,000.00 shall be established in the District's annual budget to cover such activities. Superintendent may, during the term of this Agreement, maintain memberships in such other civic, educational and professional organizations as Superintendent and the Governing Board mutually agree will benefit Superintendent and the District. Membership fees and reasonable costs of participation, as pre-approved by the Board, shall be borne by the District. At the end of each fiscal year, all unused funds shall revert to the District budget. Superintendent shall ensure that the District maintains a record log of all expenditures for Board review.

13. **Reimbursement of Travel and Business Expenses.** If Superintendent travels to conferences, state or regional meetings upon the Board's request and/or with the Governing Board's permission, the District shall pay for appropriate travel-related expenses, pursuant to applicable Board Policies, Administrative Regulations and state law. The District shall pay or reimburse Superintendent for other lawful, reasonable and necessary travel and business expenses incurred by Superintendent in the performance of his duties under this Agreement. The District's reimbursement of expenses under this Section shall be only for job-related expenses. Superintendent shall comply with all procedures and documentation requirements in accordance with Governing Board Policies, Administrative Regulations and state law.
14. **Professional Development.** Superintendent shall continue his professional development and may participate in relevant learning experiences, including attending professional meetings at the local, State and national levels. The Board shall establish a fund of \$3,000.00 annually to pay for such professional development activities. The Board, in its sole discretion, may approve the expenditure of additional funds for Superintendent's professional development activities. Travel expenses associated with such meetings will be reimbursed in accordance with District policy. At the end of each fiscal year, all unused funds shall revert to the District budget. Superintendent shall ensure that the District maintains a record log of all such expenditures for Board review.
15. **Automobile Stipend.** To accomplish his work under this Agreement, Superintendent is expected to have a personal automobile available for use for school business. The District agrees to provide Superintendent with an automobile stipend of \$600.00 per month during each fiscal year of this Agreement, covering all District obligations for Superintendent's personal and official automobile use, effective through June 30, 2020 or until termination of this Agreement, whichever shall occur first. Superintendent shall at all times be responsible for all expenses relating to the good working order and operation of his automobile, including lease cost, if applicable, maintenance, gas, oil, and liability insurance coverage of not less than \$500,000.00 per occurrence, on which the District and Board shall also be named as additional insured parties. A Certificate of Insurance shall be on file with the District throughout the full term of this Agreement. Such insurance shall be non-cancelable except upon 30 days written notice from the carrier to the District and Board President. The automobile stipend shall be paid in equal monthly installments on the same schedule Superintendent receives his base salary from the District.
16. **Tax Sheltered Annuity.** In addition to Superintendent's annual base salary, the District shall contribute an annual non-elective contribution in the amount of \$10,000.00 during each fiscal year of this Agreement to the 403(b) account selected by Superintendent. In no event shall Superintendent be given: (a) an option to receive the non-elective employer contributions as compensation; (b) the right to elect a reduction in salary in exchange for additional non-elective contributions; or (c) a choice between the non-elective contributions and any non-taxable fringe benefit. This benefit shall be provided in compliance with applicable federal and state laws.
17. **General.** Superintendent shall not be entitled to the administrative stipend currently provided to the District's assistant superintendents, but shall be entitled to any other benefits approved by the Governing Board for other 12-month certificated administrators,

unless this Agreement provides Superintendent with different or additional benefits relating to the same subject matter.

18. **Incidental Food/Beverage.** As a de minimus fringe benefit and to the extent appropriate for the occasion, the District may provide incidental food and beverages to Superintendent at Board meetings, school sponsored community events, mandatory staff meetings and other meetings or events attended by Superintendent.
19. **Governing Board/Superintendent Relationships / Evaluation / Notices.** At Superintendent's or the Board's periodic request, the Board and Superintendent shall meet to discuss Board/Superintendent relationships and expectations. In addition, the Board shall convene at least two meetings with the Superintendent each fiscal year, using the Board approved evaluation instrument. The first meeting shall occur in November annually, or at another mutually agreed upon time, and shall be considered a mid-point progress review of Superintendent's performance. The second meeting shall occur in May annually, or at another mutually agreed upon time, and shall be considered Superintendent's formal and final evaluation. Superintendent shall be responsible for inclusion of any necessary Board agenda items related to the Board's evaluation of Superintendent.

Superintendent or his designee shall be responsible for notifying the Board of the need to convene a Board meeting to discuss and communicate with Superintendent the Board's intent to renew or non-renew Superintendent's employment at the expiration of this Agreement; said notice shall be provided to the Board in January of 2020.

20. **Termination of Agreement.**

20.1 Discharge for Cause. Throughout the term of this Agreement, Superintendent shall be subject to discharge for good and just cause, with notice of termination specifying such cause to be given to Superintendent in writing. In the event of a discharge for cause, Superintendent shall have the right to request a hearing by so advising the Board in writing within ten (10) calendar days after delivery of the notice of termination. Such hearing shall be set for a date not less than 15 or more than 30-calendar days later than the Board's receipt of such written request. Such hearing shall take place as provided for under A.R.S. §15-541. The Board may, in its discretion, suspend Superintendent from his duties, with pay and all other employment benefits, upon serving Superintendent with notice of its intent to discharge him for cause.

For purposes of this Section, the term "good and just cause" includes, but is not limited to, (a) failure to perform in accordance with the terms and/or conditions of this Agreement; (b) incompetence, which shall include without limitation demonstrated and repeated deficiencies in Superintendent's administrative skills; (c) neglect of duty; (d) unprofessional conduct; (e) insubordination; (f) immoral or other conduct which tends to injure the credibility of the Board, the District, its schools, its employees and/or students; (g) any conviction on felony charges, or on misdemeanor charges involving fraud, deceit or moral turpitude; (h) physical or mental incapacity, subject to the provisions of Section 18.2; (i) failure or inability to provide acceptable evidence of appropriate professional certification; (j) violation of Governing Board Policies or federal or state laws; or (k) any

other conduct which materially interferes with the continued or efficient performance of Superintendent's duties hereunder.

20.2 Incapacity of Superintendent. Should Superintendent be unable to perform any or all of his duties by reason of illness, accident or other causes beyond his control, and such disability exists for a cumulative period of more than 6 months during any 12 month period during the term of this Agreement, and if the Board determines at its sole discretion that such disability is of such a nature that it materially impairs Superintendent's ability to perform his duties hereunder, then the Board may, at its option, terminate this Agreement upon 60 days prior written notice to Superintendent. In no event shall such termination hinder or impair Superintendent's ability to collect any disability benefits to which he would otherwise be entitled for the disability in question.

20.3 Unilateral Termination by Governing Board. The Board may, at its option and upon a minimum of 90 days prior written notice to Superintendent, unilaterally terminate this Agreement. Because Superintendent's damages for such a termination would be extremely difficult to calculate, Board and Superintendent hereby agree that upon any such termination, the District shall pay to Superintendent a sum equal to the present value of all accrued and unpaid annual base salary which Superintendent would have earned under this Agreement from the actual date of termination to the expiration date of this Agreement. Superintendent shall also be entitled to receive: (a) the present value of leave days, consistent with the provisions of Section 10 of this Agreement that have accrued up through the date of the termination; and (b) the present value of any earned and vested but unused personal and sick leave as of the date the Agreement is terminated. Superintendent shall further be entitled to payment of earned but unpaid performance pay, but only for the fiscal year in which he is terminated under this provision. Superintendent understands and agrees that his acceptance of monies paid pursuant to this paragraph shall constitute his sole legal remedy relative to all compensation and benefits to which he might otherwise have been entitled under this Agreement. Superintendent agrees that as a condition precedent to receiving the Severance Payment, Superintendent shall execute a severance agreement acceptable to the Board, which shall include Superintendent's: (i) full release of the Board, District, their agents and employees from any and all claims, including but not limited to, demands, damages, causes of action or liability arising out of Superintendent's employment or termination of employment with District; and (ii) agreement not to initiate or cause to be initiated any lawsuit, claim, grievance proceeding or investigation of any kind, under any contract, law or regulation, pertaining to his employment with District up to the date of the signing of the Agreement. Upon signing the Agreement, the Board, the District, and its agents will release Superintendent from all claims arising out of Superintendent's employment with the District.

20.4 Mutual Agreement. This Agreement shall terminate upon written agreement between Superintendent and the Board.

20.5 Superintendent's Resignation. If Superintendent desires to terminate this Agreement, Superintendent shall provide the Board with written notice of the same at least ninety (90) days prior to Superintendent's intended termination date. If the Agreement is terminated under this paragraph, Superintendent shall receive only his prorated annual base salary earned to the date of termination of employment and shall forfeit all rights to other compensation and benefits under this Agreement for the remainder of its term, including

but not limited to payout of any accrued and unused leave, except for eligibility for election of benefits available under COBRA.

20.6 Death of Superintendent. This Agreement shall automatically and without further action by the Board or Superintendent's estate terminate upon the death of the Superintendent.

20.7 Conflict of Interest. This Agreement may be terminated in accordance with A.R.S. §38-511, the terms of which are incorporated herein by reference.

21. **Governing Law.** This Agreement is made and entered into in Arizona, and shall be governed by the laws of the State of Arizona. The venue for any litigation arising out of this Agreement and the employment relationship shall be Coconino County, Arizona.
22. **Severability.** In the event any covenant, term, condition or provision of this Agreement shall be deemed by a court of competent jurisdiction to be illegal, void or against public policy, such provision shall be severed from this Agreement and the remaining terms, conditions and provisions hereof shall remain in full force and effect to the extent permitted by law.
23. **Construction.** This Agreement has been negotiated by and between the Governing Board and Superintendent in arms-length negotiations and both parties are responsible for the drafting of this Agreement. Both parties have reviewed this Agreement with appropriate legal counsel, or have waived their right to do so, and the parties hereby mutually and irrevocably agree that this Agreement shall be construed neither for nor against either party, but in accordance with the plain language and intent hereof. Headings are used herein for convenience only, and shall play no part in the construction of any provision of this Agreement.
24. **Attorney's Fees.** Each party is responsible for its own attorneys' fees in the event of any dispute between the District and Superintendent arising under or in relation to this Agreement.
25. **Waiver.** The waiver by either party of any covenant, term, condition or provision of this Agreement or any breach thereof shall not be deemed to be a waiver of any subsequent contravention or breach of same or any other covenant, term, condition or provision herein contained. No covenant, term, condition or provision of this Agreement shall be deemed to have been waived by either party, unless such waiver is in writing, signed by both parties and properly approved by the Governing Board.
26. **Notices.** Any notice required to be given hereunder shall be hand-delivered or sent by United States certified mail, return receipt requested, and addressed to (a) in the case of Superintendent, the District Office, or upon his written request, to his home address as on file in the District office; and (b) in the case of the Governing Board, the individual Board Members' respective home addresses.
27. **Time.** Time is of the essence of this Agreement and every term and condition hereof.

28. **Non-Assignability.** This Agreement is an Agreement for services and may not be assigned by either party, nor shall the Superintendent's duties hereunder be performed by any other person without the prior written consent and proper approval of the Board, which consent and approval the Board may elect to grant or deny in its sole, absolute and unfettered discretion.
29. **Integration and Amendment.** This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, and supersedes any and all prior oral or written agreements between the parties with respect to the subject matter hereof. No modification or amendment hereto shall be valid or binding upon either party unless such amendment or modification is in writing, duly executed by the parties and properly approved by the Board.
30. **Non-Discrimination.** The parties agree to comply with all provisions of applicable federal, state and local laws relating to non-discrimination and equal employment opportunity.

The Governing Board approved this Agreement at a properly noticed public meeting of the Governing Board held on September 27, 2017. In witness thereof, the parties indicate their agreement to the above terms by affixing their signatures below.

SUPERINTENDENT:

By Shane McCord
Shane McCord

September 27, 2017

GILBERT UNIFIED SCHOOL DISTRICT #41 GOVERNING BOARD:

By Sheila Rogers
Sheila Rogers, President

By Reed Carr
Reed Carr, Clerk

By Jill Humpherys
Jill Humpherys, Member

By J. Charles Santa Cruz
J. Charles Santa Cruz, Member

By Lori Wood
Lori Wood, Member

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EXHIBIT A

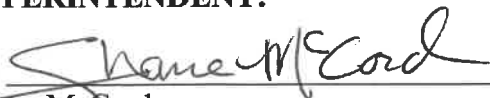
**GOVERNING BOARD RESOLUTION
SUPERINTENDENT'S EMPLOYMENT AGREEMENT
PERFORMANCE PAY PLAN**

WHEREAS, the Governing Board ("the Board") of the Gilbert Unified School District #41 ("the District") has determined that it is in the District's best interest to establish its own performance based pay plan for Superintendent Shane McCord ("Superintendent") for the term of his Employment Agreement effective beginning on October 2, 2017;

NOW, THEREFORE be it resolved by the Governing Board that:

- I. Pursuant to A.R.S § 15-341 (40), the Governing Board hereby establishes its own performance based pay plan for the services of Superintendent.
- II. Superintendent and the Governing Board agree that during the term of Superintendent's Employment Agreement, 5% of Superintendent's annual base salary (as set forth in paragraph 3.2 of Superintendent's Employment Agreement (as pro-rated for 2017-2018) shall be designated as "performance based pay". The performance based pay may be earned by Superintendent in addition to Superintendent's annual base salary. The performance based pay, if earned, shall not be added to Superintendent's annual base salary. The performance based pay amount shall be payable only if and to the extent that Superintendent satisfies the criteria for an award of performance pay.
- III. During the first fiscal year of this Agreement, Superintendent shall have earned his performance based pay if a majority of the Board members present and conducting the performance assessment agree that Superintendent has met or exceeded the performance goals that have been mutually agreed to by the Board and Superintendent. The Board and Superintendent shall meet on or before November 30, 2017 for the purpose of developing no more than five (5) measurable and attainable goals for the 2017-2018 fiscal year.
- IV. The Governing Board and Superintendent shall meet no later than May 15 annually to discuss what changes shall be made to the method of performance assessment and payment for the following fiscal year.
- V. Upon a determination that the Superintendent has earned his performance pay, the performance pay amount then owing shall be payable in the next regular pay period, unless otherwise mutually agreed by the Parties.

SUPERINTENDENT:

By 
Shane McCord

September 27, 2017

GILBERT UNIFIED SCHOOL DISTRICT #41 GOVERNING BOARD:

By Sheila Rogers
Sheila Rogers, President

By Reed Carr
Reed Carr, Clerk

By Jill Humpherys
Jill Humpherys, Member

By J. Charles Santa Cruz
J. Charles Santa Cruz, Member

By Lori Wood
Lori Wood, Member

Approved by the Governing Board on September 27, 2017.

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