

# **SAN MATEO-FOSTER CITY SCHOOL DISTRICT**

## **EMPLOYMENT AGREEMENT FOR DISTRICT ASSISTANT SUPERINTENDENT OF HUMAN RESOURCES**

**DIANA L. TAVARES**

THIS AGREEMENT is entered into on July 1, 2022, between the Governing Board (hereinafter "the Board") of and on behalf of the San Mateo-Foster City School District of California (hereinafter "the District") and Diana L. Tavares (hereinafter "the Assistant Superintendent").

**1. TERM**

The term of this Employment Agreement is from July 1, 2022 and terminating on June 30, 2025, unless extended by mutual agreement of the parties. No such extension or renewal shall be effective unless action has been taken by the Board in public session at a regular meeting. [Gov't. Code § 54956(b).]

**2. QUALIFICATIONS AND EMPLOYMENT STATUS**

The Assistant Superintendent warrants and represents that she currently possesses an administrative credential issued by the State of California, and that such credential has not been suspended or revoked. Any suspension or revocation of such administrative credential shall constitute cause for termination of this Agreement. The Assistant Superintendent shall not become a permanent employee of the District. Her employment rights and status shall be determined solely by this Agreement and California law that does not conflict with the terms hereof.

**3. POWERS AND DUTIES**

The Assistant Superintendent shall serve as the chief human resource officer of the District. In that capacity, the Assistant Superintendent shall perform all services, acts, and functions necessary or advisable to manage and conduct the business and operations of the District's Human Resources Department, subject at all times to state and federal laws, District policies and regulations, and direction of the Superintendent. The Assistant Superintendent is a member of the District's Administrative Team and shall work effectively as a member of the team. Together, the Administrative Team plans, directs, and coordinates the operations of the District. The Assistant Superintendent shall perform the duties prescribed by the laws of the State of California, District policies and regulations, the job description and as directed by the Superintendent.

**4. EVALUATION**

Each year of the agreement, the Superintendent shall evaluate the Assistant Superintendent's performance based on the duties and responsibilities set forth in this Agreement and applicable District policies and regulations.

**5. COMPENSATION**

The Assistant Superintendent's base annual salary, effective July 1, 2022, shall be \$223,351. Thereafter, the District will provide a 5% increase after completion of each two full years of service, to be applied at the beginning of the 3<sup>rd</sup> year of service. The base annual salary shall be paid in equal monthly installments. This annual base salary amount and the stipend include recognition for any other certifications and licenses, workdays, vacation and holidays. The annual salary and stipend shall be prorated for less than a year of employment.

The District and Assistant Superintendent retain the right to increase, but not decrease, the annual salary rate for any or all years of this Contract.

**6. FRINGE BENEFITS**

The Assistant Superintendent shall receive the following fringe benefits:

a. Medical, Dental, Vision and Life insurance

The same medical, dental, vision and life insurance as provided to the District's management personnel. A term Life insurance policy of \$150,000 is provided in addition to the existing group policy for management employees, or an equal premium amount applied toward a disability policy for the duration of this Agreement. The District will provide a \$1000 annual cap toward District medical coverage or in lieu of District medical coverage. The Assistant Superintendent will not be eligible for lifetime health benefits.

b. Cell phone

The Assistant Superintendent shall be provided a cell phone stipend in a manner that is consistent with the stipend provided other management employees.

c. Professional Dues and Expenses

Payment of the Assistant Superintendent's membership dues for ACSA, CALSA, and AASA. Membership dues and expenses for two other professional or community service organizations selected by the Assistant Superintendent and approved by the Board.

**7. EXPENSE REIMBURSEMENT**

The District shall reimburse the Assistant Superintendent for all actual, necessary and reasonable expenses which are incurred within the scope of employment, pursuant to Board Policy 3350. The Assistant Superintendent shall provide expense records which the District normally requires for reimbursement.

Assistant Superintendent shall be responsible for providing her own automobile and appropriate levels of automobile insurance. Mileage reimbursement for District related travel for actual and necessary travel expenses incurred while performing authorized services for the District will be paid in accordance with board policy.

**8. WORK YEAR AND VACATION**

The Assistant Superintendent is a twelve month employee and her annual salary is based on a full twelve month work year, with the exception that the Assistant Superintendent will be entitled to 20 vacation days. The Assistant Superintendent shall submit to the Superintendent a work year calendar each year before July 31. The Assistant Superintendent shall notify the Superintendent in advance of any changes she plans to make to her work calendar.

The Assistant Superintendent shall take vacation during the year in which it is earned, unless the Board President gives written approval to carry over unused days. At the conclusion of each fiscal year, the District shall pay to the Assistant Superintendent the amount owed for any vacation days accumulated and unused during that fiscal year. In the event of termination or expiration of this Agreement, the Assistant Superintendent shall be entitled to compensation for unused accrued vacation up to a maximum of 20 days at the then current salary rate. The Assistant Superintendent is entitled to paid holidays as specified by California and/or Federal law and District policy.

**9. SICK LEAVE**

The Assistant Superintendent is entitled to 12 sick leave days per year. The Assistant Superintendent may also use personal necessity and business leave days in accordance with District policy for full time employees.

**10. PROFESSIONAL GROWTH ACTIVITIES**

Prior to September 1 each year, the Assistant Superintendent shall submit to the Superintendent a schedule of anticipated professional growth activities for the school year. Any additions to this schedule shall require prior Superintendent approval. At regular intervals to be scheduled during the year by the Superintendent and Assistant Superintendent, the Assistant Superintendent shall report back to the Superintendent concerning these professional growth activities and any information and/or educational developments as the Superintendent may request.

**11. OUTSIDE PROFESSIONAL ACTIVITIES**

The Assistant Superintendent's professional priority is the District during the term of this Agreement and any extensions that may occur. The Assistant Superintendent may serve as a consultant, speaker, and lecturer or engage in other activities on a short-term basis. Any such activities that require the Assistant Superintendent to be absent from the District on work days per the annual work year calendar shall be reported to the Superintendent and subject to Superintendent approval. Any compensation received by the Assistant Superintendent for these outside professional activities shall belong to the Assistant Superintendent if they are completed on the Assistant Superintendent's vacation or non-work days.

**12. EXTENSION OF AGREEMENT**

The parties acknowledge that the term of this Agreement is three (3) school years. After the first year of this agreement, the Superintendent may offer to extend this Agreement for a period of one (1) additional year on the same terms and conditions set forth herein. Such extension, if any, shall be ratified by the Board at a regularly scheduled Board meeting during open session.

**13. TERMINATION OF AGREEMENT**

This Agreement may be terminated prior to its expiration by any of the following methods:

- A. Mutual Agreement. At any time the parties may mutually agree to terminate the agreement.
- B. Disability. Should the Assistant Superintendent be unable to serve in this position due to physical and/or mental condition, and upon expiration of the Assistant Superintendent's sick leave and disability entitlement as provided by statute or Board policies, after submission of a written evaluation by a licensed physician selected by the Board, which evaluation indicates the Assistant Superintendent's inability to carry out the duties of the position of Assistant Superintendent, this Agreement may be terminated by the Board.
- C. Unilateral Termination by Assistant Superintendent. The Assistant Superintendent may terminate this Agreement by providing the Superintendent with a written notice of intent to terminate. This notice shall be provided no less than ninety (90) days prior to the effective date of said termination. The Superintendent and the Board may mutually agree to a termination notice from the Assistant Superintendent of less than ninety (90) days. Should the Assistant

Superintendent become a finalist for other employment, she shall immediately notify the Superintendent.

- D. **Unilateral Termination by Board.** The Board, at its sole discretion and without the need for any cause, may, upon giving written notice to the Assistant Superintendent, terminate this Agreement. If the Board elects this option to terminate the Agreement, the District shall pay the Assistant Superintendent severance pay at the selection of the Assistant Superintendent, in one lump-sum payment or equal monthly payments beginning no later than the effective date of termination, the base salary the Assistant Superintendent would have earned for the remainder of this Agreement following the effective date of termination, not to exceed the equivalent of twelve (12) months of salary. The Assistant Superintendent shall also receive the same District paid medical, dental, and vision insurance for the same period of time in accordance with Government Code 53261. If the contract is terminated under this provision, any cash settlement related to the termination that Assistant Superintendent may receive from the District shall be fully reimbursed to the District if the Assistant Superintendent is convicted of a crime involving an abuse of office or position.
- E. **Non-renewal of Agreement by Board.** The Board shall provide the Assistant Superintendent with at least forty-five (45) calendar days' written notice prior to the expiration date of this Agreement of the Board's intention not to renew or extend this Agreement beyond its then current expiration date. The Board and the Assistant Superintendent agree that this is intended to implement the notice requirement in Education Code section 35031. It shall be the duty of the Assistant Superintendent to notify the Superintendent and each member of the Board in writing of this non-renewal provision of the Agreement no later than December 1 immediately prior to the expiration of this contract or any extension thereof. If the Assistant Superintendent fails to provide this notice to the Superintendent and Board, she shall be deemed to have waived the requirements and automatic renewal provisions of section 35031, and shall further be deemed to have received notice of non-renewal by the Board as if she had received actual timely notice of non-renewal.
- F. **Termination for Cause.** The Board may discharge the Assistant Superintendent for cause. Discharge for cause shall be warranted only for conduct that is prejudicial to the District, including but not limited to, neglect of duty.

Notice of discharge for cause shall be given in writing and the Assistant Superintendent shall be entitled to appear before the Superintendent and/or Board to discuss such causes.

If the Assistant Superintendent chooses to be accompanied by legal counsel at such meeting, the Assistant Superintendent shall bear any costs she incurs for such representation. Such meeting shall be conducted in closed session unless mutually agreed otherwise.

The Superintendent and/or Board shall prepare a written statement of reasons for any decision to discharge for cause and provide it to the Assistant Superintendent. The Assistant Superintendent shall have the right to submit a written response to the decision, which the District shall attach to and make a part of the decision.

All documents relating to termination of this Agreement shall be treated as confidential personnel matters and maintained in confidence except as required by California law.

- G. Remedies. The parties expressly understand and agree that any breach or termination of this Agreement by the District and/or Board shall not result in the Assistant Superintendent's continued employment or reinstatement. The remedies provided in this Agreement are the exclusive remedies available to the Assistant Superintendent.

If the contract is terminated under any of the foregoing provisions, any cash settlement related to the termination the Assistant Superintendent may receive from the District shall be fully reimbursed to the District if the Assistant Superintendent is convicted of a crime involving an abuse of office or position.

**14. ENTIRE AGREEMENT**

This Agreement contains the entire agreement and understanding 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.

**15. APPLICABLE LAW**

This Agreement shall be construed in accordance with, and governed by the laws of the State of California; should any provision of this Agreement be invalid, the remainder of this Agreement shall nevertheless be binding and effective.

**16. VENUE**

This Agreement is made and entered into in the State of California and shall in all respects be interpreted, enforced, and governed by the laws of that State. Venue of any action to enforce this Agreement shall be in San Mateo County, California.

**17. ATTORNEYS' FEES**

The parties further agree and understand that in the event that legal proceedings are initiated for the purpose of enforcing the terms of this Agreement, the prevailing party in any such proceeding shall be entitled to an award of reasonable attorneys' fees and costs incurred in bringing or defending such action.

**18. AMENDMENTS**

The parties agree that the terms of this Agreement cannot be changed or supplemented orally and may be modified or superseded only by a written instrument executed by all parties.

**19. EXECUTION IN COUNTERPARTS**

This Agreement may be executed in two or more counterparts which, taken together, shall constitute the whole Agreement between the parties. A fax or "pdf" signature shall be as valid as an original signature. A copy of this document shall be as valid as the original.

**20. EFFECTIVE DATE**

The effective date of this Agreement shall be July 1, 2022 even though the date on which the Board may approve this Agreement may occur on a different date.

**21. NON-WAIVER**

Failure to insist upon strict performance of any requirement of this Agreement shall not



be construed as a waiver of any other or future performance hereunder.

**22. INDEMNITY AND DEFENSE OF ASSISTANT SUPERINTENDENT**

The District shall indemnify, save, hold harmless and defend the Assistant Superintendent from any claim, demand, suit, action and proceeding of any kind and in any forum wherein the Assistant Superintendent is alleged to have acted in any way related to her duties as Assistant Superintendent or related to the District. The District's obligation to indemnify shall be excused only as to liability for damages awarded against the Assistant Superintendent upon exhaustion of all appeals from any finding by a court of competent jurisdiction that the Assistant Superintendent's action was outside the scope of her employment, intentionally violated a criminal law of California or constituted intentional fraud with malice without reversal of such finding. Upon retirement or separation from the District, the Assistant Superintendent will continue to be indemnified for any actions taken against her related to her role as Assistant Superintendent.

**23. NO ASSIGNMENT**

The Assistant Superintendent may not assign or transfer any rights granted or obligations assumed under this contract.

**24. INDEPENDENT REPRESENTATION**

The Assistant Superintendent and the Board each recognize that in entering into this Agreement, the parties have relied upon the advice of their own attorneys or other representatives, and that the terms of this Agreement have been completely read and explained to them by their attorneys or representatives, and that those terms are fully understood and voluntarily accepted. The Assistant Superintendent acknowledges and agrees that legal counsel for the Board represents the Board's interest exclusively and that no attorney-client relationship exists between Assistant Superintendent and legal counsel to the Board.

Dated: 4-22-22

Diana L. Tavares  
Diana L. Tavares, Assistant Superintendent  
San Mateo-Foster City School District

Dated: \_\_\_\_\_

\_\_\_\_\_  
Alison Proctor  
President, Governing Board  
San Mateo-Foster City School District

Ratified in a public meeting of the Governing Board on \_\_\_\_\_