

**EMPLOYMENT AGREEMENT
BETWEEN THE GOVERNING BOARD OF
THE SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
AND
ASSISTANT SUPERINTENDENT – HUMAN RESOURCES**

The following Employment Agreement is entered into between the Governing Board of the Santa Monica-Malibu Unified School District (hereafter referred to as “District” or Board”), and **Mark Kelly** (hereafter referred to as “Assistant Superintendent – Human Resources”).

Section 1. Term. Mark Kelly is hereby employed as the Assistant Superintendent - Human Resources. The term of employment is for a three-year period commencing July 1, 2018, and ending June 30, 2021, and shall be subject to the terms and conditions hereinafter set forth.

Section 2. Salary. The Assistant Superintendent – Human Resources shall receive a base annual salary of One Hundred Sixty-Three Thousand Six Hundred and Eight dollars (**\$163,608.00**). In addition to the base annual salary, the Assistant Superintendent – Human Resources shall receive any stipends for longevity and graduate degrees in the same amount given to other District certificated management employees. The Assistant Superintendent's salary shall be adjusted to provide the same general across-the-board salary increases provided to other District certificated management employees each school year, if any. Pursuant to Education Code Section 35032, the Governing Board may, at any time during any school year, provide for an increase in annual salary following discussions with the Assistant Superintendent. Such increase shall become effective on any date ordered by the Governing Board. Any salary increase for the Assistant Superintendent – Human Resources for each subsequent fiscal year shall be based upon performance and determined at the discretion of the Superintendent and Board of Education. This base salary is contingent on a satisfactory evaluation and the attainment of goals and objectives to be mutually determined by the Superintendent. However, the parties agree not to reduce the annual salary below the figure stated unless by mutual consent.

Section 3. Duties and Responsibilities. The Assistant Superintendent – Human Resources shall be governed by and shall perform duties and responsibilities as set forth in the California Education Code and the formal job description for the position of “**Assistant Superintendent – Human Resources**” adopted by the Board of Education, as well as, Rules and Regulations of the State Board of Education and Rules, Regulations, Policies, and Directives of the Governing Board of the Santa Monica-Malibu Unified School District, and shall perform such duties and responsibilities at a professional level of competence and with due diligence.

Section 4. Professional Activities/Organizations. The District encourages the Assistant Superintendent – Human Resources to participate in professional organizations and activities, provided that such participation is consistent with his overall responsibilities to the District and, further provided that such participation does not interfere with the satisfactory performance of his duties and obligations to the District. Actual and necessary expenses incurred by the Assistant Superintendent – Human Resources in connection with attendance at work related conferences and workshops approved by the Board, shall be paid by the District.

Section 5. Transportation. The Assistant Superintendent – Human Resources shall be provided with a District allowance of Four Hundred Dollars (\$400) per month for transportation in the performance of his duties. The Assistant Superintendent – Human Resources shall pay fuel, maintenance, insurance and all other expenses for his own automobile. Trips beyond a one hundred mile radius will be reimbursed at the District's mileage rate in addition to the monthly sum provided in this paragraph. This allowance is noncreditable STRS compensation, as per Ed Code Sections 22119.2(c) and 27502.

Section 6. Cellular Phone. The Assistant Superintendent – Human Resources shall be provided with a District allowance of One Hundred and Fifty Dollars (\$150) per month for cellular phone use in the performance of his duties. This allowance is noncreditable STRS compensation, as per Ed Code Sections 22119.2(c) and 27502.

Section 7. Work Year. The work year under this Agreement shall consist of 222 days during each school year. The work days shall be determined by the Superintendent. Any compensation for days worked

beyond the required work year shall be at the discretion of the Superintendent in consultation with the Governing Board. Senior Management employees shall be entitled to holidays defined in Sections 37220 and 37221 of the California Education Code, and any additional local holiday granted by the Board for twelve (12)-month management employees of the District.

The Assistant Superintendent – Human Resources shall be entitled to thirteen (13) days of sick leave/personal necessity annually. Earned sick leave shall be cumulative, as provided by State law and Board policy. In addition to the 13 days of sick leave/personal necessity, the Assistant Superintendent – Human Resources shall be entitled to up to five (5) days of bereavement leave without loss of pay. Consultant services may be engaged in by the employee during regular working days only upon the written approval of the Superintendent/Board of Education.

Section 8. Fringe Benefits.

A. Health and Welfare Benefits. The Assistant Superintendent – Human Resources shall be entitled to receive a choice of health insurance plans for the current school year to be selected from the plans available from the Public Employees' Retirement System (PERS) health benefits program. Dependents may be covered, depending on the plan selected by the Assistant Superintendent – Human Resources. The District shall also provide full cost coverage of Delta Dental or PMI for the Assistant Superintendent – Human Resources and his dependents.

B. Retirement Contributions. The District shall pay the employer contribution rate (as determined by STRS) to the State Teacher Retirement System (STRS) on behalf of the Assistant Superintendent – Human Resources. The Assistant Superintendent – Human Resources shall pay the employee contribution rate (as determined by STRS) to STRS and shall not be entitled to an equivalent amount with respect to severance pay, or any other compensation not specifically referred to in the Employment Agreement.

Section 9. Evaluation. The Superintendent shall annually review and establish the Assistant Superintendent – Human Resources' performance objectives on or before October 15th of each year. The performance of the Assistant Superintendent – Human Resources shall be evaluated at least once per year, by means of a written evaluation. The written evaluation shall be prepared by the Superintendent and shall be based upon, but not limited to, the Assistant Superintendent – Human Resources' performance of the duties and responsibilities contained in the job description, and written goals and objectives established by mutual agreement between the Superintendent and the Assistant Superintendent – Human Resources. The written evaluation shall be discussed with the Assistant Superintendent – Human Resources, after which a written summary of the discussion and evaluation shall be provided for the Assistant Superintendent – Human Resources.

Section 10. Termination of Agreement. Notwithstanding the provisions of this Agreement, said Agreement may be terminated at any time by mutual consent of the Assistant Superintendent – Human Resources and the Board of Education, subject to Government Code Sections 53260 and 53261.

During the term of this Agreement, the Assistant Superintendent – Human Resources may be dismissed by the Board **for cause** as defined in Education 44932. In the event such cause is for reasons other than unsatisfactory performance, an unsatisfactory evaluation shall not be a condition precedent for such dismissal.

During the term of this Agreement, the Assistant Superintendent – Human Resources may be dismissed by the Board **at will and/or without cause**, subject to Government Code Sections 53260 and 53261. Pursuant to Government Code Section 53260, the maximum cash settlement the Assistant Superintendent – Human Resources may receive shall be an amount equal to the monthly salary of the employee multiplied by the number of months left on the unexpired term of the Agreement. If the unexpired term of the agreement is greater than eighteen (18) months, the maximum cash settlement shall be an amount equal to the monthly salary of the Assistant Superintendent – Human Resources multiplied by eighteen (18). Pursuant to Government Code Section 53261, the cash settlement shall not include any other non-cash benefits except health benefits as set forth in this Agreement, which may be continued for the same duration of time as the cash settlement or until the Assistant Superintendent – Human Resources finds other employment, whichever occurs first. Such termination shall be effective thirty (30) days following written notice by the Board.

Pursuant to Government Code section 53243.2, any funds received by the Assistant Superintendent – Human Resources from the District as a buyout, resulting from the Board’s decision to terminate the Assistant Superintendent – Human Resources without cause, shall be fully reimbursed to the District if the Assistant Superintendent – Human Resources is convicted of a crime involving the abuse of this powers of office. If Assistant Superintendent – Human Resources is convicted of a crime involving abuse of his office, the following sums, if paid by the District on behalf of or to the Assistant Superintendent – Human Resources shall be fully reimbursed: (1) paid leave for the Assistant Superintendent – Human Resources pending an investigation (Section 53243); (2) funds for the legal criminal defense of the Assistant Superintendent – Human Resources (Section 53243.1); or (3) any cash settlement related to the Assistant Superintendent – Human Resources’ termination (Section 53243.3).

Notwithstanding any other provision of this Agreement or the policies and regulations of the Board, the Board may elect not to renew this Agreement, and/or not to reemploy the Assistant Superintendent – Human Resources upon expiration of this Agreement pursuant to Education Code Section 35031, by providing written notice to the Assistant Superintendent – Human Resources, at least, 45 days in advance of the expiration of this Agreement.

Section 10. Applicable Law. This Contract is subject to all applicable laws of the State of California, rules and regulations of the State Board of Education, and rules, regulations and policies of this Board.

DATED this _____, day of _____, 2018

Accepted:

**SANTA MONICA-MALIBU UNIFIED
SCHOOL DISTRICT**

Mark Kelly

Ben Drati, Superintendent and
Secretary of the Board of Education

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