

**EMPLOYMENT AGREEMENT between SANTA ROSA CITY SCHOOLS and  
DIANN KITAMURA, Ed.D.**

This Employment Agreement (“Agreement”) is made and entered into by and between the Board of Education of Santa Rosa City Schools (“the Board” or “the District”) and Diann Kitamura, Ed.D. (“the Superintendent”) (together, “Parties”).

NOW, THEREFORE, it is hereby agreed as follows:

**1. TERM OF EMPLOYMENT**

**1.1** The term of this Agreement shall commence on December 11, 2019, and terminate on June 30, 2022, unless such employment is terminated earlier or extended pursuant to the terms of the Agreement.

**1.2** During the term of employment the Superintendent shall provide 12 months of full and regular service to the District, with the exception of vacations, holidays as set forth in Education Code Section 37220, and approved leaves (as set forth in the Agreement), for a total of 225 work days during the school year. The Parties recognize that the Superintendent position demands more than 8 hours/day and 40 hours/week; the Superintendent shall not be entitled to receive overtime compensation.

**2. POWERS AND DUTIES**

**2.1 General**

a. The Superintendent shall serve as the Chief Executive Officer of the Board, in accordance with Education Code Section 35035.

b. The Superintendent shall have primary responsibility for management of all District affairs. In carrying out his or her duties, the Superintendent shall provide educational leadership to the District and make student learning and success his or her highest priorities. The Superintendent shall endeavor to maintain and improve his or her professional competence by all available means, including subscription to and reading of appropriate periodicals and membership in appropriate associations.

c. The Superintendent shall be responsible for the operations of the District, including, but not limited to, the areas of general administration, instruction, human resources, communications, government relations, facilities, and business affairs.

d. For any time period during which at least one District facility is open and the Superintendent is unavailable, the Superintendent shall appoint a responsible District employee to temporarily fulfill the Superintendent’s duties and, when doing so, shall notify the Board President.

**2.2 Administrative and the Board**

a. The Superintendent shall establish and maintain positive community, staff, and The Board relations.

b. The Superintendent shall attend every Board meeting unless excused in writing by the Board President. This duty may not be delegated unless permitted in writing by the Board President.

c. The Superintendent shall serve as Secretary to the Board and perform the duties as prescribed in Education Code Section 35025.

d. The Superintendent shall have primary responsibility for the execution of Board policies, although primary responsibility for the formulation of Board policies is retained by the Board. The Superintendent shall review all policies adopted by the Board and make appropriate recommendations to the Board for addition, deletion, or modification.

e. The Superintendent shall be responsible for the development and execution of administrative regulations required or necessary for the implementation of Board policies and shall place any new or modified administrative regulation on the agenda of a Board meeting.

f. As permitted by any applicable law including, but not limited to, the Brown Act, the Superintendent shall, in advance of Board meetings, keep all Board members advised of emerging issues that could have a material impact on the Board or the District.

g. The Superintendent shall serve as liaison to the Board with respect to all matters of employer-employee relations and shall make recommendations to the Board concerning those matters.

h. The Superintendent shall submit financial and budgetary reports to the Board and shall advise the Board on possible sources of funds to carry out District programs.

i. Annually, the Superintendent shall prepare and submit a recommended District budget to the Board, with supporting financial information to assist the Board in approving a sound budget.

j. The Superintendent shall enter into Agreements for and on behalf of the District, subject to Board approval or ratification as required by law.

k. The Superintendent shall continue to provide crisis leadership on issues arising from the 2017 wildfires and their impact on the District's schools.

l. The Superintendent shall continue to provide leadership for the change from at-large trustee area voting to by trustee area voting, and the additional duties required as the trustee areas shift as a result of the U.S. Census in 2020.

m. The Superintendent shall have such other duties properly delegated to him or her by Board policies or by other Board actions.

### **2.3 Personnel**

a. The Superintendent may appoint a cabinet of senior District administrators to advise the Superintendent and shall evaluate all cabinet members pursuant to their Agreements as well as Board policies and regulations.

b. The Superintendent shall have primary responsibility for making timely and appropriate recommendations to the Board regarding personnel matters, including the employment of

personnel and any release, non-reelection, or termination of an employee. Upon request by the Superintendent, the Board may authorize the Superintendent to employ personnel without Board approval.

c. As required by Education Code Section 35035, and subject to the approval of the Board, the Superintendent is responsible for assigning all District employees employed in positions requiring certification qualifications. He or she shall also be responsible to periodically evaluate or cause to be evaluated all District employees.

d. The Superintendent shall provide leadership and direction in negotiations with all labor groups.

#### **2.4 External Relations**

a. The Superintendent shall represent the District before the public, and shall maintain such a program of public relations as may serve to improve understanding and to keep the public informed about District activities, needs, and results.

b. The Superintendent shall act as the primary liaison with the local, state, and federal agencies and elected representatives.

c. The Superintendent is encouraged to attend appropriate local community meetings.

d. The Superintendent shall regularly report to the Board on all external relations activities.

e. The Superintendent shall engage with community, elected officials, and state agencies on issues arising out of the 2017 wildfires and their impact on the District's schools.

f. The Superintendent shall engage with appropriate local communities around trustee area elections and representation.

#### **2.5 Other Duties**

a. **Credentials.** At all times during the term of this Agreement, the Superintendent shall hold valid teaching and Administrative Services credentials issued by the California Commission on Teacher Credentialing.

b. **Driver's License.** The Superintendent is required to maintain a valid California Driver's License and have a vehicle available at all times to perform the duties of the position.

c. **Outside Professional Activities.** With prior approval of the Board, the Superintendent may undertake consultative work, speaking engagements, writing, lecturing, or other professional duties and obligations. Said outside professional activities may be performed for consideration, provided they do not interfere with or conflict with the Superintendent's performance of duties under this Agreement.

### **3. COMPENSATION**

**3.1** The Superintendent's annual salary shall be two hundred and thirty five thousand dollars (\$235,000) commencing on July 1, 2020 with a satisfactory evaluation. Any change in compensation beginning July 1, 2021 will be by mutual agreement of the Board and Superintendent.

**3.2** The Superintendent's salary shall be payable on the last day of each month in installments of 1/12 of the annual salary for services rendered during the preceding month, with proration for a period of less than a full year of service. The daily rate for the purpose of prorating the Superintendent's annual salary shall be determined by dividing her annual pay by 225 work days. The Superintendent shall also receive a stipend of \$1,200 for a master's degree and an additional stipend of \$1,200 for a doctorate degree.

**3.3** The annual salary may be increased at the sole discretion of the Board. Any increase in salary shall be discussed and approved in open session at a regular Board meeting pursuant to Government Code Section 54956(b). A change in salary during the term of the Agreement shall not constitute the creation of a new Agreement or extend the termination date of the Agreement.

#### **4. FRINGE BENEFITS**

**4.1 Medical, Dental and Vision Insurance.** During his/her employment under the Agreement, the Superintendent may select any medical, dental, and vision plan available to other certificated management employees within the District. The Superintendent shall be responsible for any employee contribution of the plan selected. If the Superintendent remains in her position through the end of the 2019-2020 school year, the District shall contribute the dollar amount to fully cover the Superintendent's individual health insurance premium until the age of 65 and supplemental medicare gap insurance thereafter until the age of 85; however, the District shall not be responsible for this amount if the Superintendent, after leaving the District, obtains another position that provides comparable retirement benefits.

**4.2 Retirement Contribution.** The Superintendent is responsible for his or her share of contributions to CalSTRS.

#### **5. WORK-RELATED EXPENSES**

**5.1 Reimbursement for work related expenses.** The Superintendent shall receive \$500 per month in lieu of reimbursement for in-county expenses of maintaining a vehicle. The District shall reimburse the Superintendent for all other documented ordinary and necessary expenses incurred relative to employment as the Superintendent and consistent with Board policies, regulations, and guidelines applicable to other certificated management employees. Unless otherwise addressed in the Agreement, if the Superintendent seeks to be reimbursed for the cost of traveling outside of the District, such as for attending an out-of-District conference, the Superintendent shall obtain written approval from the Board President before incurring the expense.

**5.2 Professional Dues.** The District shall pay the Superintendent's annual dues to the Association of California School Administrators ("ACSA"). The District also agrees to reimburse the Superintendent for dues and reasonable expenses associated with membership in a local service club to be selected by the Superintendent and approved by the Board President.

### **5.3 Technological Devices.**

a. At its sole discretion, the Board shall provide to the Superintendent, at District expense, a cell phone and a laptop computer and/or tablet, hereinafter “Technology Devices.” The District shall pay any costs and expenses associated with owning, licensing, operating and maintaining such Technology Devices. This does not include costs associated with maintaining home internet access. All Technology Devices so provided are the property of the District and the District shall have the right to control the access to, and use of, Technology Devices through its Board policies, including its technology use policies, personnel policies, and its risk management policies.

b. All District-provided Technology Devices are provided to facilitate performance of the Superintendent’s duties and obligations as an employee of the District. The Superintendent may use District-provided Technology Devices for personal use within reasonable limits and in a manner consistent with Board policies, including its technology use policies, personnel policies, and its risk management policies. The Superintendent shall not use any Technology Device in any manner that is inconsistent with such policies.

c. When Technology Devices are provided by the District, the Superintendent shall not conduct District business on devices that are not provided or owned by the District.

d. The Superintendent hereby waives any and all rights and protections over the content of any Technology Device or other electronic device (e.g., cell phone, computer, tablet) on which he or she has conducted any District business, regardless of whether the device is provided by the District pursuant to the Agreement. This waiver permits the Board or anyone authorized by the Board to examine the contents of any such device without requiring additional permission, including, but not limited to, a separate waiver or a warrant.

## **6. LEAVES**

**6.1 Illness leave.** The Superintendent shall accrue illness leave at the rate of twelve (12) working days each school year. This leave shall accumulate without limit. Accrued unused illness leave shall not be compensable upon separation.

**6.2 Vacation.** The Superintendent shall accrue paid vacation at the rate of 22 working days each school year, exclusive of the paid holidays provided by law or policy to 12-month certificated management employees. All vacation must be scheduled in advance and approved by the Board President. The Superintendent may accrue up to 44 vacation days and once this maximum accrual level is reached, the Superintendent shall cease accruing additional vacation until his or her balance falls below this level or up to 22 days of vacation may be paid out per year. The Superintendent shall take a minimum of 11 vacation days each school year. Accrued vacation shall be payable at the Agreement rate in effect at the time of separation from the District, retirement or demise.

**6.3 Other leaves.** The District shall provide the Superintendent with such other leaves as are provided to other certificated management employees of the District.

## **7. PROFESSIONAL DEVELOPMENT**

**7.1** As requested by the Superintendent and if approved by the Board President, the District shall provide the release time and related expenses for the Superintendent to participate in

professional development activities. If the Superintendent participates in an activity, he or she shall provide a timely report to the Board.

## **8. EVALUATION**

**8.1** The Board shall evaluate the Superintendent in each year.

**8.2** Prior to September 1 of each year, the Board shall meet to establish the Superintendent's performance goals and objectives for that school year based on the duties and responsibilities set forth in the Agreement, the Board's strategic planning priorities and any other criteria chosen by the Board. These goals and objectives shall be reduced into writing and, at the Board discretion, may include input provided by the Superintendent.

**8.3** Prior to October 1 of each year, the Board shall, in writing, provide the Superintendent with the evaluation instrument that the Board shall use to assess the Superintendent's performance based on the goals and objectives established pursuant to the preceding paragraph. The evaluation instrument shall include an overall job performance rating of "Meets Expectations," "Needs Discussion,"."

**8.4** Prior to May 31 of each year, the Superintendent shall remind the Board in writing of the Board's evaluation obligations under the Agreement, and the Superintendent and the Board shall agree on dates for the Superintendent's evaluation and the other steps of the evaluation process as described herein.

**8.5** Prior to May 31 of each year, the Superintendent shall provide the Board with an annual report regarding the state of the District and shall also make a presentation based on the report at a regularly scheduled Board meeting.

**8.6** Prior to June 30 of each year, the Superintendent shall present the Board with a written self-evaluation. The self-evaluation shall mirror the form of the written evaluation instrument.

**8.7** Prior to August 30 of each year, and after receiving the Superintendent's state of the District report and self-evaluation, each of the following shall occur:

a. Each Board member shall individually complete the evaluation instrument;

b. The Board shall devote a portion of at least one meeting to a discussion and evaluation of the Superintendent's performance, including the working relationship between the Superintendent and the Board.

c. The Board President shall be responsible for utilizing the individual Board member evaluations and Board discussion to prepare a single, evaluative document that communicates the Board's collective feedback and expectations.

**8.8** The evaluation of the Superintendent by the Board shall be in writing and placed in a sealed envelope in the Superintendent's personnel file marked as follows: "Confidential. Only to be opened upon authorization of the Board." A copy of the evaluation shall be provided to the Superintendent.

**8.9** Failure of the Board to complete the evaluation process does not constitute a material breach of the Agreement and shall not result in the amendment or extension of the Agreement. Failure of the Board to evaluate the Superintendent shall not preclude the Board from giving notice of termination or nonrenewal in accordance with this Agreement.

**9. EXTENSION OF EMPLOYMENT AGREEMENT**

**9.1** Each year that the Superintendent’s written evaluation for the school year just completed is deemed as “Meets Expectations” in a majority of the areas by a majority of the Board, this Agreement shall be placed on the agenda for the next regularly scheduled meeting for consideration and potential action and extension (July 1st through June 30th). This Agreement may only be extended by official the Board action at a regularly scheduled meeting.

**10. NON-RENEWAL OF EMPLOYMENT AGREEMENT**

**10.1** Should the Board determine that it does not wish to negotiate and execute a new Agreement at the end of the term of the Agreement, it shall give written notice of the decision to the Superintendent at least 45 days prior to the end of the Agreement, as required pursuant to Education Code Section 35031. The Parties expressly agree to waive the term of the automatic renewal provision established in Education Code Section 35031. Rather, if the Board fails to provide notice of non-renewal, the Agreement shall automatically be renewed on the same terms but only for a period of one year.

**10.2** Between 90 and 120 days prior to the end of the Agreement, the Superintendent shall, in writing, remind each Board member of the Board’s obligation to give written notice pursuant to the preceding paragraph. Failure by the Superintendent to provide notice to the Board shall invalidate the notice requirement under the preceding paragraph and shall operate as a waiver of the automatic renewal provision in Education Code Section 35031 and in the preceding paragraph.

**11. TERMINATION**

**11.1 Termination for Cause**

a. Notwithstanding any other provision of the Agreement, the Superintendent may be terminated for cause prior to the expiration of the Agreement, for any of the following:

- (i) Failure by the Superintendent to possess or maintain a valid California Administrative Credential;
- (ii) Suspension or revocation of the Superintendent’s California Administrative Credential;
- (iii) Neglect of Duty;
- (iv) Physical or mental inability of the Superintendent to perform his or her duties;
- (v) Material breach of the Agreement;
- (vi) The Superintendent interviews for any other position during the term of

the Agreement and he or she fails to notify the Board President when the interview is scheduled;

(vii) Any other legally permissible reason.

b. Any other legally permissible reason includes, but is not limited to, conduct that is seriously detrimental to the District. Conduct that is seriously detrimental to the District includes, by way of illustration and not limitation, failure of good behavior, either during or outside of duty hours, which is of such a nature that it causes discredit to the District, unprofessional conduct, or incompetence. The Superintendent acknowledges that he or she is the District's most visible representative and is required to maintain higher standards of personal conduct than any other employee. In order to represent the District with integrity and high ethical standards, the Superintendent shall avoid professional or personal situations that might reflect negatively on the Superintendent, the District, or the Board.

c. Prior to terminating the Superintendent for cause, the Board shall give the Superintendent 30 days written notice of its intention to terminate him or her for cause. Such written notice shall include a statement of the specific acts or omissions which give rise to the proposed action. No action shall be taken on a proposed termination for cause until the Superintendent has had an opportunity to meet with the Board to be heard by way of explanation, defense, or a showing that the specific acts or omissions have been corrected. This opportunity to be heard shall be provided within 15 calendar days after the Superintendent is served the notice of the Board's intention. This meeting with the Board is not an evidentiary hearing. The Parties are expected to provide each other with a reasonable, complete explanation of their positions and either party may be accompanied by an attorney. The Superintendent's right to meet with the Board shall be exclusive of any right to any other hearing otherwise required by law.

d. Any decision to terminate the Superintendent for cause shall be effective upon the date determined by the Board, except that such date shall not be sooner than 30 calendar days after the notice of termination is given to the Superintendent. In the event that the Superintendent is terminated for cause, all rights and obligations of the Parties under the Agreement shall be deemed fully satisfied on the effective date of the termination and the Superintendent shall not be entitled to any further benefit under the Agreement including, but not limited to, the fringe benefits and expense reimbursements.

e. A determination as to whether cause exists to terminate the Superintendent shall always be at the sole discretion of the Board.

## **11.2 Termination Without Cause**

a. Notwithstanding any other provision of the Agreement, the Board shall have the sole right to terminate the Superintendent without cause at any time before its normal expiration. If the Board terminates the Superintendent without cause before its normal expiration, it shall pay to the Superintendent his or her base salary and medical/dental/vision and other benefits provided under the Agreement for either six months or the number of months remaining on the Agreement, whichever is less.

b. The compensation set forth in the preceding paragraph shall be the only compensation of any kind that shall be due to the Superintendent if the Superintendent is terminated without cause by the Board.

### **11.3 Termination by Mutual Consent**

a. Notwithstanding any other provision of the Agreement, the Board and the Superintendent may, by mutual consent, terminate the Agreement before its expiration. In the event of termination by mutual consent, the maximum cash settlement that the Superintendent may receive shall either (i) an amount equal to the monthly salary of the Superintendent multiplied by the number of months left on the unexpired term of the Agreement or (ii) an amount equal to the monthly salary of the Superintendent multiplied by six, whichever is less.

b. This paragraph is set forth herein because it is required by subdivision (a) of Government Code Section 53260, but the Parties agree that it shall be superseded by the provisions set forth Section 11.1 in the event that the Superintendent is terminated for cause, or by the provisions set forth in Section 11.2 in the event that the Superintendent is terminated without cause.

### **11.4 Termination by Death**

a. The Agreement shall terminate immediately upon the death of the Superintendent and all rights.

## **12. LIABILITY FOR TAXES**

**12.1** Notwithstanding any other provision of the Agreement, the District shall not be liable (except in cases of District errors or omissions) for any state or federal tax consequences to the Superintendent, any designated beneficiary hereunder, or the heirs, administrators, executors, successors, and assigns of the Superintendent. The Superintendent shall assume sole liability for any state or federal tax consequences of the Agreement or any related Agreement and agrees to indemnify and hold the District harmless from such tax consequences.

## **13. INDEMNIFICATION**

**13.1** The District shall include the Superintendent as a named insured in its liability and errors and omissions insurance policies.

**13.2** The District shall, to the full extent permitted by law, defend, hold harmless, and indemnify the Superintendent from any and all demands, claims, suits, actions, and legal proceedings brought against him or her in his or her personal capacity or in his or her official capacity as an agent and/or employee of the District, provided that the incident arose while the Superintendent was acting on matters related to his or her employment with the District.

**13.3** In no event shall any individual Board member be personally liable for indemnifying the Superintendent.

## **14. GENERAL PROVISIONS**

**14.1 Full and Complete Agreement.** The Agreement is the full and complete Agreement between the Parties. It can be changed or modified only in writing signed by the Superintendent and the Board President or designee after Board approval.

**14.2 Entire Agreement.** The Agreement contains the entire 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 the Agreement. The Agreement is intended by the Parties to be the sole instrument governing the relationship between the Parties unless a provision of law, now or hereinafter enacted, is specifically applicable to the Agreement or to the relationship between the Board and the Superintendent.

**14.3 Waiver.** No waiver of any breach of any term or provision of this Agreement shall be construed to be, nor shall it be, a waiver of any other breach of this Agreement. No waiver shall be binding unless in writing and signed by the party waiving the breach.

**14.4 Applicable Laws.** Except as modified pursuant to an express term of the Agreement, the Agreement is subject to all applicable laws of the State of California, the rules and regulations of the State Board of Education, and Board rules, regulations, and policies. These laws, rules, regulations, and policies referenced herein are a part of the terms and conditions of the Agreement as though fully set forth herein.

**14.5 Construction.** The Agreement shall be liberally construed to effectuate the intention of the Parties with respect to the transaction described herein. In determining the meaning of, or resolving any ambiguity with respect to, any word, phrase or provision of the Agreement, it is understood and agreed that the Parties have participated equally or have had equal opportunity to participate in the drafting hereof and no such Agreement term shall be construed or resolved against either party based on any rule of construction.

**14.6 Delivery of Notices.** All notices permitted or required under the Agreement shall be given to the Superintendent at the following address: 211 Ridgway Avenue, Santa Rosa, CA 95401. Such notices shall be deemed received when personally delivered or when deposited in the U.S. Mail. However, actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

**14.7 Headings.** The headings of sections of the Agreement have been inserted for convenience of reference only and shall not affect the interpretation of any of the provisions of the Agreement.

**14.8 Attorney's Fees.** In the event of any action or proceeding to enforce or construe any of the provisions of the Agreement, the Superintendent and the Board shall each bear the cost of their own attorney's fees and costs regardless of the outcome of the action or proceeding.

**14.9 Severability.** If any portion of the Agreement is declared invalid or unenforceable by a court of competent jurisdiction, such declaration shall not affect the validity or enforceability of the remaining provisions of the Agreement.

**14.10 AB 1344.** If the Superintendent is convicted of a crime involving abuse of his or her office, the Superintendent shall reimburse the District for all applicable costs pursuant to Article 2.6 (commencing with Section 53243) of Chapter 2 of Part 1 of Division 2 of the Government Code. Pursuant to Government Code Section 53243.2, any funds received by the Superintendent from the District resulting from the Board's decision to terminate the Superintendent without cause pursuant to the Agreement, shall be fully reimbursed to the District if the Superintendent is convicted of a crime involving the abuse of his or her powers of office. If the District funds the criminal defense of the Superintendent against charges involving the abuse of his or her office or position, and the

