

CLINT INDEPENDENT SCHOOL DISTRICT

Superintendent's Term Contract

This Contract is entered into between the Board of Trustees (the "Board") of CLINT INDEPENDENT SCHOOL DISTRICT (the "District") and JUAN I. MARTINEZ, (the "Superintendent"). C.I.S.D., the Board, and the Superintendent are also hereinafter referred to collectively as "parties."

WITNESSETH:

NOW, THEREFORE, the Board and the Superintendent, for and in consideration of the terms hereinafter established and pursuant to Section 11.201 and Chapter 21 of the Texas Education Code, have agreed, and do hereby agree, as follows:

I. Term

- 1.1. **Term.** The Board, by and on behalf of the District, does hereby employ the Superintendent, and the Superintendent does hereby accept employment as Superintendent of Schools for the District for a term of three (3) years beginning **August 1, 2013**, and continuing through **July 31, 2016**, as a twelve (12)-month-per-year employee
- 1.2. **Contract Extension.** Beginning in the 2014-2015 school year, the Board may consider extension of this contract each year during the contract term. Failure to reissue the Contract for an extended term shall not constitute non-renewal under Board policy.
- 1.3. **No Tenure.** The Board has not adopted any policy, rule, regulation, law, or practice providing for tenure. No right of tenure is created by this contract. No property interest, express or implied, is created in continued employment beyond the contract term.

II. Certification

- 2.1 The Superintendent agrees to maintain the required certification throughout the term of employment with the District. If the Superintendent's certification expires, is canceled or revoked, this Contract is void.

III. Representations

- 3.1 **Beginning of Contract:** The Superintendent represents that he has disclosed to the Board, in writing, any arrest and any indictment, conviction, *nolo contendere* (no contest) plea, guilty plea or other adjudication of the Superintendent. The Superintendent understands that a criminal history record acceptable to the Board, at its sole discretion, is a condition precedent to this Contract.
- 3.2 **During Contract:** The Superintendent also agrees that, during the term of this Contract, the Superintendent shall notify the Board, in writing, of any arrest or of any indictment,

conviction, no contest or guilty plea, or other adjudication of the Superintendent. The Superintendent agrees to provide such notification in writing within seven (7) calendar days of the event or any shorter period specified in Board policy.

- 3.3 **False Statements and Misrepresentations:** The Superintendent represents that any records or information provided in connection with his employment application and documents related thereto are true and correct. Any false statements, misrepresentations, omissions of requested information, or fraud by the Superintendent in or concerning any required records or in the employment application may be grounds for termination or nonrenewal, as applicable.

IV. Employment

- 4.1 **Duties.** The Superintendent is the educational leader and chief executive of the District and shall faithfully perform the duties of the Superintendent of Schools for the District, as prescribed in the job description and as may be assigned by action of the Board, and shall comply with all Board directives, state and federal law, district policy, rules and regulations as they exist or may hereafter be amended.
- 4.2 **Authority.** The Superintendent shall perform such duties and have such powers as may be prescribed by the Texas Education Code, federal and state law, and the Board. The Board shall have the right to assign additional duties to the Superintendent and to make changes in responsibilities or work at any time during the contract term. All duties and responsibilities assigned by the Board shall be appropriate to and not inconsistent with the professional role and responsibilities of a Superintendent. In the case of administrative assignment and reassignment, the Superintendent shall inform the members of the Board prior to administrative assignment and/or reassignment.
- 4.3 **Standard:** Except as otherwise permitted by this Contract, the Superintendent agrees to devote his full time and energy to the performance of his duties. The Superintendent shall perform his duties with reasonable care, skill, and diligence. The Superintendent shall comply with all Board directives, state and federal laws and rules, Board policy, and regulations created and/or as they exist or may hereafter be amended.
- 4.4 **Reassignment.** The Superintendent cannot be reassigned from the position of Superintendent to another position without the Superintendent's express written consent.
- 4.5 **Board Meetings.** The Superintendent shall attend all meetings of the Board. The Superintendent will be normally required to attend all executive sessions of the Board, but this Contract shall not grant the Superintendent a right to attend all executive sessions of the Board. The Board President may excuse the Superintendent from any executive session conducted by the Board at any Board meeting. In the event of illness, or Board President approved absence, the Superintendent's designee shall attend such meetings. The Superintendent or the Superintendent's designee shall attend all Board Committee Meetings, Board-authorized and approved citizen committee meetings, and further, the

Superintendent shall provide recommendation(s) and/or information as to each of the items of business considered at each meeting.

- 4.6 **Criticisms, Complaints, and Suggestions.** The Superintendent shall establish an administrative process for addressing informal complaints, criticisms and suggestions reported to him and/or his administrative staff. The Board and/or Board members shall promptly refer criticisms, complaints and suggestions called to the attention of the Board and/or Board members to the Superintendent for study and recommendation and/or appropriate response.

V. Compensation and Benefits

- 5.1 **Salary.** In determining the Superintendent's daily rate, Superintendent's compensation shall be based on a 226-day administrator contract. The District shall pay the Superintendent an annual salary in the sum of **ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$175,000.00)** per each twelve (12) month period, and all compensation shall be payable in installments of one-twelfth (1/12) of the total annual salary on the last work day of each month for the Superintendent's services rendered during the preceding month or in accordance with the schedule of salary payments in effect for other certified employees, at the option of the Superintendent.
- 5.2 **Salary Adjustments.** At any time during the term of this Contract, the Board may in its discretion, review and adjust the salary of the Superintendent, but in no event shall the Superintendent be paid less than the salary set forth pursuant to Subsection 5.1 of this Contract except by mutual Agreement of the parties. Such adjustments, if any, shall be in the form of a written addendum to this Contract or a new contract.
- 5.3 **Vacation and Personal Leave.** The Superintendent may take, at the Superintendent's choice, subject to notice to the Board, ten (10) days of vacation per year, which may be used in a single period or at different times. Vacation days, which may be accumulated without limit, may not be liquidated for cash. The vacation days taken by the Superintendent will be taken at such time or times as will least interfere with the performance of the Superintendent's duties as set forth in this Contract. The Superintendent shall observe the same legal holidays as provided by Board policies for administrative employees on twelve-month contracts, and in the absence of such policies, the Superintendent shall observe the same legal holidays as authorized and set forth by the Board annually in connection with the Board's adoption of the District's annual calendar. The Superintendent is hereby granted the same personal leave benefits as authorized by Board Policy DEC (legal) and (local), and/or such other Board policy or policies as may be adopted by the Board from time to time.

The Superintendent shall not take more than three (3) consecutive personal leave days during the school year unless the Superintendent obtains, with reasonable advance notice, the Board President's written approval. The Superintendent shall inform Board President of his designee. If, at the end of any school year, the Superintendent has accrued unused personal leave, he may request payment for such accrued benefits based upon a ratio of the

then current annual salary rate (at the daily rate of the Superintendent's base salary) divided by 226 days, and the District shall make payment as salary, to a maximum of five (5) days. After three (3) full years of service to the District, the Board shall make payment for any accrued unused personal leave of up to fifteen (15) days.

- 5.4 **Medical Insurance and District Benefits.** The Superintendent shall be entitled to all benefits applicable to full-time administrative employees, as are incidental to their employment relationship with the District, including leaves, retirement program, and other applicable administrative employee benefits. C.I.S.D. shall pay all premiums to enroll and maintain the Superintendent in the same C.I.S.D. health insurance plan, including medical, dental and vision plans offered by C.I.S.D. to all District employees. However, the District, in order to comply with Federal Law, will only pay the same health insurance premiums on behalf of the Superintendent that the District pays for health insurance for other administrative employees, but the District shall increase the Superintendent's salary under 5.1 of the Contract herein by Six Thousand Dollars (\$6,000.00) per year to reflect the dollars amount of the difference between the total premium paid to enroll and maintain the Superintendent in the health insurance plan and the yearly premium costs paid by other administrative employees for their health insurance plan. The amount also includes payment of "employee only" premiums for dental and vision insurance. The Board reserves the right, however, to add, amend and/or rescind any of its policies and/or resolutions at any time during the term of this Contract to reduce or increase District benefits, at the Board's sole discretion.
- 5.5 **Automobile and Fuel.** Subject to review and adjustment during the term of this Contract, and in light of the unique nature of the Superintendent's professional duties, the District shall provide the Superintendent with a fuel and automobile allowance of One Thousand Two Hundred and Twenty Five Dollars (\$1,225.00) per month for intra-district travel. The Superintendent shall also be entitled to reimbursement for travel outside of the District for District business in accordance with the District's Travel Reimbursement Settlement Allowances and Procedures in place and as may be amended from time to time.
- 5.6 **Cell Phone.** The Superintendent shall paid a monthly cellular phone allowance of fifty dollars (\$50,00) for business-related phone calls.
- 5.7 **Interest Bearing Account.** C.I.S.D. will deposit into an interest bearing account a sum of \$6,000.00 per year completed commencing in 2013, which said monies will represent the Superintendent's interest bearing account over a period of three (3) years of employment with the District. Should the Superintendent complete service as Superintendent of C.I.S.D. until the end of the 2015-2016 school year, then at the conclusion of the 2015-2016 school year, the Superintendent becomes the primary beneficiary of said interest bearing account.
- 5.8 **Civic Activities.** The Superintendent is encouraged to participate in community and civic affairs. The expense of such activities, subject to Board approval, shall be borne by the District.

5.9 **Membership in Professional/Service Organizations.** The District shall pay 100% of the District's and/or Superintendent's membership charges to the following organizations:

- Texas Association of School Administrators (TASA);
- American Association of School Administrators; and
- Other professional dues and/or service club/organization dues/fees as the Superintendent deems necessary to maintain and improve his professional skills and/or benefit the District, as permitted by law and approved by the Board in the budget not to exceed five hundred dollars (\$500.00) per school year.

5.10 **Expenses.** The District shall pay or reimburse the Superintendent for reasonable expenses incurred by the Superintendent in the continuing performance of the Superintendent's duties under this Contract. The District agrees to pay the actual and incidental costs incurred by the Superintendent for travel to destinations outside the District. Such actual or incidental costs may include, but are not limited to, gasoline, hotels and accommodations, meals, rental car, and other expenses incurred in the performance of the business of the District. The Superintendent shall comply with all procedures and documentation requirements in accordance with Board policies.

5.11. **Professional Liability/Indemnification.** To the extent it may be permitted to do by applicable law, including, but not limited to Texas Civil Practice & Remedies Code Chapter 102, the District does hereby agree to defend, hold harmless, and indemnify Superintendent from any and all demands, claims, suits, actions, judgments, expenses and attorneys' fees incurred in any legal proceedings brought against Superintendent in the Superintendent's individual or official capacity as an employee and as Superintendent of the District, providing the incident(s), which is (are) the basis of any such demand, claim, suits, actions, judgments, expenses and attorneys' fees, arose or does arise in the future from an act or omission of Superintendent as an employee of the District, acting within the course and scope of Superintendent's employment with the District; excluding, however, matters involving the termination or nonrenewal of the Superintendent's employment, any matters involving criminal charges and/or criminal litigation against the Superintendent, any such demand, claim, suits, actions, judgments, expenses and attorneys' fees for those claims or any causes of action where it is determined that Superintendent committed official misconduct, or committed a willful or wrongful act or omission, or an act or omission constituting gross negligence, or acted in bad faith; and excluding any costs, fees, expenses or damages that would be recoverable or payable under an insurance contract, held either by the District or by Superintendent. In no event shall individual Board members be considered personally liable for defending the Superintendent against any claims. The selection of Superintendent's legal counsel shall be with the mutual agreement of Superintendent and the District if such legal counsel is not also District's legal counsel. A legal defense may be provided through insurance coverage, in which case Superintendent's right to agree to legal counsel provided for him will depend on the terms of the applicable insurance contract. To the extent this Section exceeds the authority provided and limitations imposed by Texas Civil Practice & Remedies Code, Chapter 102, it shall be construed and modified accordingly. The provisions of this Section shall survive the termination of this Contract, and the Superintendent agrees to

fully cooperate with the District and its authorized representatives in the handling and defense of such Claims, both during and after the Superintendent's term of employment with the District, as may be required by the District.

- 5.12 All other terms and obligations created by this Contract notwithstanding, the District shall not be required, in any event, to defend, hold harmless and/or pay any costs associated with any proceeding where the Superintendent and the District and/or the Board are named as adversarial parties in such Claims or where the alleged conduct or action of the Superintendent is outside the course and scope of his employment with the District, provided that neither the District, the Board, Board member nor District representative joins the proceeding as a named adverse party in order to avoid providing a defense to the Superintendent.

VI. Annual Performance Goals & Review of Performance

- 6.1 **Development of Goals.** The Superintendent shall, by October 1, of each year of this Contract, submit for the Board's consideration and adoption a preliminary list of goals for the District. The goals approved by the Board shall be reduced to writing and shall be among the criteria on which the Superintendent's performance will be reviewed and evaluated. The Board agrees to work with and support the Superintendent in achieving the District Goals.
- 6.2 **Review of Performance.** The Board shall evaluate and assess the performance of the Superintendent, at least, once a year of this contract. The evaluation and assessment shall be related to the duties of the Superintendent as outlined in the Superintendent's job description and annual goals for the District.
- 6.3 **Confidentiality.** Unless the Superintendent expressly requests otherwise in writing, the evaluation of the Superintendent shall at all times be conducted in executive session and shall be considered confidential to the extent permitted by law and with input of the Superintendent. Nothing herein shall prohibit the Board of the Superintendent from sharing the contents of the Superintendent's evaluation with their respective legal counsel.
- 6.4 **Evaluation Format and Procedure.** The evaluation format and procedure shall be in accordance with the Board's policies and state and federal law. In the event that the Board determines that the performance of the Superintendent is unsatisfactory in any respect, it shall describe in writing, in reasonable detail, specific instances of unsatisfactory performance. The evaluation shall include recommendations as to areas of improvement in all instances where the Board deems performance to be unsatisfactory. A copy of the written evaluation shall be delivered to the Superintendent. The Superintendent shall have the right to make a written response to the evaluation. That response shall become a permanent attachment to the evaluation in the Superintendent's personnel file. Within thirty (30) days of the delivery of the written evaluation to the Superintendent, the Board shall meet with the Superintendent to discuss the evaluation. The Board shall devote, at a minimum, a portion of, or all of, one executive session annually to a discussion of the working relationship between the Superintendent and Board. It is also agreed that the

Superintendent and Board will hold at least a semi-annual evaluation conference with a format agreeable to both sides. In the event the Board deems that the evaluation instrument, format and/or procedure is to be modified by the Board and such modifications would require new or different performance expectations, the Superintendent shall be provided a reasonable period of time to demonstrate such expected performance being evaluated.

VII. Professional Growth and Outside Activities.

- 7.1 **Professional Growth and Outside Activities.** The Superintendent shall devote his full-time attention and energy to the administration and supervision of the District. However, within the established, applicable budget, the Board shall allow the continuing professional growth of the Superintendent through his attendance at local, state and national school administrator and/or school board associations; local, state and national conferences, seminars and/or courses offered by public or private institutions, commissions or committees related to education; and informational meetings with persons whose particular skills or backgrounds would serve to improve the capacity of the Superintendent in the performance of his professional responsibilities for the District.

The Board shall permit a reasonable amount of release time for the Superintendent to attend such functions; and the District shall pay for the reasonable and necessary fees for travel and subsistence expenses, in accordance with the District's Travel Reimbursement Settlement Allowances and Procedures in place and as may be amended from time to time.

VIII. Residency

- 8.1 **Residency.** The Superintendent shall establish his residency within the geographical boundaries of El Paso County at all times during his employment with the District.

IX. Suspension

- 9.1 **Suspension.** In accordance with Chapter 21 of the Texas Education Code, the Board may suspend the Superintendent without pay during the term of this Contract for good cause as determined by the Board.

X. Extension or Nonrenewal

- 10.1 **Extension/Nonrenewal.** Extension or nonrenewal shall be in accordance with Board policy, Texas Education Code Chapter 21, Subchapter E, and applicable law.

XI. Termination of Employment Contract

- 11.1 **Mutual Agreement.** This Contract shall be terminated by the mutual agreement of the Superintendent and the Board in writing, upon such terms and conditions as may be mutually agreed upon.
- 11.2 **Retirement or Death.** This Contract shall be terminated upon the retirement or death of the Superintendent.
- 11.3 **Dismissal for Good Cause.** The Board may dismiss the Superintendent during the term of the Contract for good cause. The term "good cause" is defined as follows:
- a. Failure to fulfill duties or responsibilities as set forth under the terms and conditions of this Contract;
 - b. Incompetence or inefficiency in the performance of required or assigned duties as documented by evaluations, supplemental memoranda, or other written communication from the Board; provided, however, the terms and conditions of this paragraph shall not justify good cause unless the Board has provided the Superintendent a reasonable opportunity to remediate any incompetency or inefficiency.
 - c. Insubordination or failure to comply with lawful written Board directives;
 - d. Failure to comply with written Board Policies or District administrative regulations.;
 - e. Neglect of duties;
 - f. Drunkenness or excessive use of alcoholic beverages;
 - g. Illegal use of drugs, hallucinogens, or other substances regulated by the Texas Controlled Substances Act;
 - h. Conviction of a felony or crime involving moral turpitude;
 - i. Failure to meet the District's standards of professional conduct;
 - j. Failure to comply with reasonable District professional development requirements regarding advanced course work or professional development;
 - k. Disability, not otherwise protected by law, that substantially impairs the Superintendent's performance of required duties;
 - l. Immorality, which is conduct not in conformity with the accepted moral standards of the community encompassed by the district. Immorality is not confined to sexual matters, but includes conduct inconsistent with rectitude or indicative of corruption, indecency or depravity;
 - m. Assault on an employee or student;
 - n. Knowingly falsifying records or documents related to the District's activities;
 - o. Conscious misrepresentation of material facts to the Board or other District officials in the conduct of the District's business;
 - p. Failure to fulfill requirements for superintendent certification;
 - q. Failure to fulfill the requirements of a deficiency plan under an Emergency Plan; or,
 - r. Any other reason constituting "good cause" as defined by Section 21.211 and 21.212 of the Texas Education Code.

- 11.4 **Termination Procedure.** In the event the Board proposes the termination of this Contract for "good cause," the Superintendent shall be afforded all the rights as set forth in the Board's policies, and state and federal law.
- 11.5 **Resignation of Superintendent.** The Superintendent may leave the employment of the District at the end of a school year without penalty by filing a written resignation with the Board. The resignation must be addressed to the Board and filed not later than the 45th day before the first day of instruction of the following year. The Superintendent may resign, with the consent of the Board, at any other time.

XII. General Provisions.

- 12.1 **Controlling Law.** This Contract shall be governed by the laws of the State of Texas and shall be performable in El Paso County, Texas, unless otherwise provided by law.
- 12.2 **Complete Agreement.** This Contract embodies the entire agreement between the parties hereto and cannot be varied except by written agreement of the undersigned parties, except as expressly provided herein.
- 12.3 **Conflicts.** In the event of any conflict between the terms, conditions and provisions of this Employment Contract and the provisions of the Board's policies, or any permissive state or federal law, then, unless otherwise prohibited by law, the terms of this Contract shall take precedence over the contrary provisions of the Board's policies or any such permissive law during the term of the Contract.
- 12.4 **Savings Clause.** In the event any one or more of the provisions contained in this Contract shall, for any reason, be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. All existing agreements and contracts, both verbal and written, between the parties hereto regarding the employment of the Superintendent have been superseded by this Contract, and this Contract constitutes the entire agreement between the parties unless amended pursuant to the terms of this Contract.
- 12.5 **Amendment:** This Contract may not be amended except by written agreement of the Parties.
- 12.6 **Paragraph Headings:** The headings used at the beginning of each numbered paragraph in this Contract are not intended to have any legal effect; the headings do not limit or expand the meaning of the paragraphs that follow them.
- 12.7 **Legal Representation:** Both Parties have been represented by legal counsel of their choice, or have had the opportunity to consult with legal counsel, in the negotiation and execution of this Contract.

12.8 **Multiple Originals.** This Agreement is executed in two originals, one for the Board and one for the Superintendent, each of which shall constitute but one and the same instrument.


XIII. Notices

13.1 **To Superintendent:** The Superintendent agrees to keep a current address on file with the District's Human Resources Department and the Board President. The Superintendent agrees that the Board may meet any legal obligation it has to give the Superintendent written notice regarding this Contract or the Superintendent's employment by hand-delivery, or by certified mail, regular mail, and/or express delivery service to the Superintendent's address of record.


13.2 **To Board:** The Board agrees that the Superintendent may meet any legal obligation to give the Board written notice regarding this Contract or the Superintendent's employment by providing one copy of the notice to the President of the Board and one copy to the Vice-President of the Board. The Superintendent may provide such notices by hand-delivery, or by certified mail, regular mail, and/or express delivery service, to the Board President and Vice- President's addresses of record, as provided to the District.

I have read this Contract, prepared in duplicate originals, and agree to abide by its terms and conditions:

CLINT INDEPENDENT SCHOOL DISTRICT

By: 

JAMES R. PENDELL
President, Board of Trustees

SUPERINTENDENT:


JUAN I. MARTINEZ

Date offered and executed: July 18, 2013

Date accepted and executed: July 18, 2013