

INTERIM SUPERINTENDENT AGREEMENT

This Agreement (hereinafter "Agreement") is entered into between the Board of Education of the Oakland Unified School District, a public entity under the Government Code of the State of California (hereinafter "Board"), and Dr. Roberta Mayor, an individual (hereinafter "Superintendent"). The effective date of this Agreement is July 1, 2008.

Provisions

1. ***Title, Duties, and Responsibilities:*** Commencing on July 1, 2008, Roberta Mayor shall assume the title, duties, responsibilities, and position of Interim Superintendent of the Oakland Unified School District as follows:

a. Dr. Mayor shall assume the title of Interim Superintendent. In that capacity, she shall exercise those duties and responsibilities regularly performed by superintendents of school districts in the State of California, including but not limited to those required by the Education Code of the State of California and the laws of the United States and State of California applicable to the District, and as consistent with the policies, administrative regulations, and resolutions of the Board, in addition to those related duties assigned to her from time to time by the Board.

b. Superintendent shall exercise day-to-day decisions over all district operations. She shall report to and be directly accountable to the Board with regard to the following operational areas: Community Relations and Governance; Personnel Management, and Facilities Management. Until the full return of local control to the Board, Superintendent shall work collaboratively with the State Administrator with regard to the following operational areas: Financial Management and Pupil Achievement. Final authority and control over all activities in each operational area is as provided in the MOU enacted on April 8, 2008.

c. Superintendent shall give her exclusive professional services to the District during the term of this Agreement, except as otherwise provided in this document and shall attend all regular and special meetings of the Board, unless prevented by illness or otherwise excused by the Board. For a period of up to eight (8) days after July 1, 2008, Superintendent shall, with no reduction in District compensation, complete any outstanding work for FCMAT, her current employer. In consideration, Superintendent shall perform, at no charge to the District, up to 8 days of service to the District prior to July 1, 2008.

2. ***Term:*** This Agreement shall commence on July 1, 2008 and remain in force through June 30, 2009. Except for permissible absences as provided by this contract or by law, Superintendent shall render 12 months of full and regular service to the District. By mutual written consent of the parties, this Agreement can be extended on a month-to-month basis with compensation to be equivalent to 1/12 of the total contract amount described below.

3. **Compensation:** The annual salary of the Superintendent shall be TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000.00) for 12 months of service, payable in 12 equal monthly installments. Each installment is payable on the last work day of the month.

4. **Benefits and Reimbursement:** The Superintendent shall be provided with the following benefits for the term of this Agreement:

a. Health and welfare benefits as provided to the certificated management employees of the District including, but not limited to, medical, vision and dental coverage as well as the certificated annuity plan, without any waiting period. Paid holidays as provided to other twelve month certificated and classified employees by the District's adopted calendar.

b. Sick leave to accumulate at the rate of twelve (12) days per year and other leave as provided to the certificated management employees in the District.

c. Thirty (30) annual vacation days with pay to accrue equally on a monthly basis over twelve months. The Superintendent will be reimbursed annually at her daily rate of pay for any unused days but is encouraged to use her vacation time.

d. The District will contribute 100% of all contributions for the District and the Superintendent to the State Teachers Retirement System ("STRS").

e. District encourages the continuing professional growth of Superintendent through her participation in local, state, and/or national school administrator and school board associations, seminars and courses and informational meetings with other persons whose skills or backgrounds would improve the capacity of Superintendent to perform her professional responsibilities. The Board may, upon advance written notification from the Superintendent, permit her to attend such activities and shall pay for travel expenses, and conference fees. The District authorizes the payment of designated dues for the superintendent's membership in a professional organization such as the Association of California School Administrators (ACSA) and/or the California Association of Chief Business Officials (CASBO).

5. **Board-Superintendent Relations:** The Board recognizes that it is a collective body, and each Board member recognizes that his/her power as a Board member is derived from the collective deliberation and action of the Board as a whole in a duly constituted meeting. Individual Board members shall not give direction to the Superintendent or any staff member regarding the management of the District or the solution of specific problems. It is agreed that the Board, individually and collectively, will refer promptly to the Superintendent for study and action, criticisms, complaints and suggestions brought to the attention of the Board or any member thereof.

The Board and Superintendent will meet at least twice during the term of this Agreement to discuss Board-Superintendent relations as they impact the effectiveness of the Board and Superintendent as the District's governance team. The Board President or other designated representative of the Board shall collaborate with the Superintendent on

scheduling, identification of objectives, development of the agenda and selection of the outside advisor for such meetings.

6. **Evaluation:** The Board shall evaluate in writing the performance of the Superintendent at least once during the term of this Agreement. Said evaluation shall be reasonably related to the position description of the Superintendent, the stated goal, and objectives of the District, and any other written criteria that the Board determines is appropriate and provides to the Superintendent. The evaluation shall be objective and based on specific performance criteria. The evaluation shall provide for a rating system such that the Board, individually and collectively, may indicate whether the performance of the Superintendent is satisfactory, requires improvement, or is unsatisfactory, both as to overall performance and as to specific focus areas identified by the Board.

a. The Board shall complete a written evaluation of the Superintendent by April 1, 2009;

b. As a part of the evaluation, the Board by September 1st, in consultation with the Superintendent, shall identify no more than three (3) primary focus areas for the Superintendent's work along with at least one (1) indicator of success in each focus area. Indicators of success may include surveys of individuals or groups having knowledge of the District's and/or the Superintendent's performance. The focus areas and indicators shall be selected as soon as practicable after the effective date of this Agreement.

c. By February 16, 2009, the Superintendent shall provide the Board with a memorandum describing her performance in each of the focus areas identified above. The memorandum shall reference specific data on the District's progress, including data pertaining to the specific indicators of success previously identified. Within 15 days of receipt of the memorandum, the Board shall schedule a meeting with the Superintendent to discuss the memorandum and its own evaluation of her performance.

d. The results of the Board's completed evaluation shall be summarized in writing and shall include recommendations for improvement in all areas where the Board deems the Superintendent's performance to be unsatisfactory or in need of improvement, as well as commendations for superior performance. A copy of the written evaluation shall be delivered to the Superintendent by April 1, 2009. If the Superintendent so requests, an additional meeting with Board to discuss the written evaluation shall be held within thirty (30) days of the delivery of the written evaluation to the Superintendent. The Superintendent shall have the right to make a written response to the evaluation to be included in her personnel records.

e. In the event that a majority of the Board determines that the Superintendent's performance requires improvement, the Board shall describe in writing, in reasonable detail, the improvement required, including specific recommendations for change.

f. In the event that a majority of the Board determines that the

Superintendent's performance is unsatisfactory, the Board shall describe in writing, in reasonable detail, areas of unsatisfactory performance, indicating specific instances and citing performance-related data where available. The Board shall also describe in writing, in reasonable detail, the improvement required, including specific recommendations for change.

7. **Termination:** This Agreement may be terminated prior to its expiration date under any of the following circumstances:

- a. Mutual agreement, at any time;
- b. Retirement or resignation by Superintendent at any time;
- c. Disability of the Superintendent such that Superintendent cannot perform her essential job duties even with reasonable accommodation by the District as determined by the District;

d. For cause, if the Board determines that the Superintendent has materially breached the terms of this Agreement or has neglected to perform her duties under it, provided the Board provides Superintendent with written notice of its intention, with 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 and/or her authorized representative has had an opportunity to meet with the Board. The Superintendent may be represented by counsel, at her own expense, at any such meeting. The Superintendent will have at least five (5) days' notice to prepare for any such Board meeting. Any decision to terminate for cause shall be effective upon the date determined by the Board. Cause shall include malfeasance, abandonment of office, material breach of this agreement, neglect of duties, dishonesty, gross misconduct, any of the dismissal causes enumerated in Education Code § 44932, conviction of a felony, or other serious misdemeanor crime; and

- e. Unilateral action by the Board at any time.

8. **Payment Upon Termination and Limitation on Cash Benefits on Termination:** Pursuant to Government Code § 53260, in the event of termination of this Agreement for any reason, no cash settlement may be made in an amount which exceeds the salary and benefits remaining under the Agreement. This amount shall not be construed as a guarantee or minimum entitlement. If the Board terminates this Agreement for any reason prior to its expiration, the District shall place Superintendent on paid administrative leave for the remainder of the term of the Agreement and shall continue to pay Superintendent's salary, health and welfare and other benefits for each month remaining under the term of the contract, unless pursuant to Government Code section 53260 subdivision b, termination is based on District's belief and subsequent confirmation pursuant to an independent audit that Superintendent has engaged in fraud, misappropriation of funds, or other illegal fiscal practices, in which case the amount of cash settlement shall be limited to an amount no greater than Superintendent's monthly salary multiplied by zero to six, as determined by an administrative law judge after a hearing.. In the event that this contract is terminated on the basis of Superintendent's disability, any payment to Superintendent under this section shall be reduced

by any amounts she receives from other sources including, without limitation, workers' compensation or disability insurance payments.

9. **Limitation on Non-Cash Benefits on Termination:** Pursuant to Government Code § 53261, in the event of termination of this Agreement for any reason, non-cash benefits may not be conferred in settlement except for employer-paid health benefits which may be provided for a period not to exceed the monthly period by which any cash settlement is measured. This amount shall not be construed as a guarantee or minimum entitlement. In any event, employer-paid health benefits shall be discontinued if and when the employee obtains other employment where health benefits are available before the measuring period has expired.

10. **Credential:** Superintendent shall furnish throughout the life of this Agreement a valid and appropriate California credential to act as Superintendent of a K-12 school district. Failure to maintain such credential in good standing shall constitute cause for dismissal.

11. **Conflict of Interest and Duty of Loyalty:** Superintendent represents and warrants that she presently has no interest in, nor shall she acquire any interest in, any matter which will render the services required under the provisions of this Agreement a violation of any applicable state, local, or federal law. In the event that any conflict of interest should nevertheless arise, Superintendent shall promptly notify the Board of the existence of such conflict of interest so that the Board may determine whether to terminate this Agreement or take other action. Superintendent represents and warrants compliance with all federal, state, and District rules and regulations regarding conflict of interests.

12. **Indemnification:** The District shall defend, indemnify and hold Superintendent harmless against any claims, demands, actions, lawsuits, losses or damages of any kind or nature arising during the course and scope of her duties as Superintendent.

13. **Entire Agreement:** This Agreement contains the entire agreement and understanding between the Parties on the subject matter herein. There are no oral understandings, agreements, terms, or conditions not contained in this Agreement between the Parties regarding the subject matter of this Agreement. No Party has relied upon any representations or warranties express or implied, not contained in this Agreement.

14. **Modifications:** This Agreement may be modified only by written mutual consent of the Parties provided, however, and subject to waiver, that the Party seeking such alteration or amendment shall give written notice thereof to the other Party not less than thirty (30) calendar days prior to the proposed effective date of such alteration or amendment. Such alteration or amendment shall be in the form of a written amendment and shall become a part of this Agreement. Any waiver must be in writing.

15. **Dispute Resolution:** Any controversy between Board and the Superintendent involving the construction or application of any of the terms, provisions, or conditions of this Agreement shall, on the written request of any party served on the others, be submitted to binding arbitration under the provisions of the California Arbitration Act, Code of Civil Procedure § 1280, et seq. Arbitration shall comply with and be governed by the provisions of the California Arbitration Act. Board and Superintendent shall agree on the selection of one person to hear and determine the dispute. If the Parties are unable to agree on a single arbitrator to hear the

dispute, they shall obtain a list of arbitrators from the employment and labor panel of the American Arbitration Association and select the arbitrator by the alternative strike method. The cost of arbitration shall be shared equally by the Parties or in such proportions as the arbitrator(s) may decide.

16. **Applicable Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of California. The Parties further agree that performance of the Agreement shall occur within the jurisdiction of Alameda County, State of California, and venue for any dispute arising out of this Agreement shall be in the Superior Court of the State of California, County of Alameda.

17. **Severability:** If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction or arbitrator, the remaining provisions of the Agreement shall continue in full force and effect.

18. **Non-Assignment:** Superintendent may not assign or transfer any rights granted or obligations assumed under this Agreement.

19. **Waiver:** The waiver by any Party of a breach by any other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement.

20. **Notices:** All notices under this Agreement shall be mailed to the following addresses:

Roberta Mayor
Oakland Unified School District
1025 Second Ave., Room 301
Oakland, CA 94606

President, Board of Education
Oakland Unified School District
1025 Second Avenue, Room 320
Oakland, CA 94606

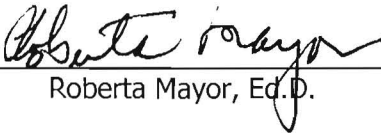
21. **Voluntary Agreement:** The Parties acknowledge that each of them has fully discussed the contents of this Agreement with their chosen representatives and that they have knowingly, voluntarily and willingly entered into it.

22. **Binding Nature of Agreement:** This Agreement is and shall be binding upon and inure to the benefit of the respective successors, representatives, executors, administrators, heirs and assigns of the Board and Superintendent.

23. **Execution in Counterparts:** This Agreement may be signed in counterparts. Although multiple copies of this Agreement may be executed, the Parties agree that the Agreement on file in the Office of the Board is the version of this Agreement that shall take precedence should any differences exist among counterparts of the document.

IN WITNESS WHEREOF, the Parties have entered in on this Agreement as of the day and year first above written.

Dated: _____ May 22, 2008



Roberta Mayor, Ed.D.

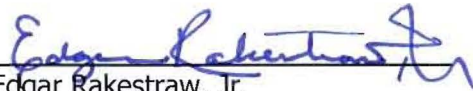
BOARD OF EDUCATION OF THE
OAKLAND UNIFIED SCHOOL DISTRICT

Dated: May 22, 2008

By: 

David Kakishiba
President

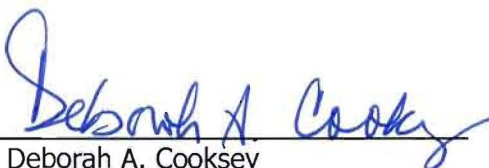
Dated: May 22, 2008

By: 

Edgar Rakestraw, Jr.
Secretary

Approved As To Form And Content:

Dated: May 28, 2008

By: 

Deborah A. Cooksey
Interim General Counsel

Legislative File

File ID No 08-1059
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Enactment No 08-0763
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