

## EDUCATIONAL SERVICE UNIT 10 ADMINISTRATOR' S CONTRACT EMPLOYMENT

THIS CONTRACT is made by and between the Board of Educational Service Unit No. 10 of the State of Nebraska, and referred to as "the Board" or "the ESU," and Melissa Wheelock referred to herein as "the Administrator." In accordance with its action taken and recorded in the minutes of a duly advertised board meeting, the Board agrees to employ the Administrator, and the Administrator agrees to accept such employment, subject to the terms and conditions set forth herein.

Section 1. Term of Contract. The Administrator shall be employed for a period of three years beginning on July 1, 2020, and expiring on June 30, 2023. References to "contract year" shall mean the period from July 15th through June 30th and shall consist of all days except Saturdays and Sundays and any holidays or leave days listed in Section 11.

Section 2. Renewal of Contract. If a Board representative does not inform the Administrator in writing on or before the seventh day after the regular board meeting of the Board's intention to consider the nonrenewal or amendment of this contract, the contract will automatically renew for a period of one year from and after the expiration date provided in Section 1 of this contract. The Administrator shall remind the Board in writing of this provision no later than its regular November meeting of each year of this contract and shall make the renewal of her employment contract an agenda item for the regular December board meeting during each year of this contract. At the time of each contract renewal and/or amendment, the Administrator shall be responsible for taking all necessary steps to ensure that the ESU has complied with the Superintendent Pay Transparency Act.

Section 3. Salary. The Administrator' s salary for each contract year shall be \$178,000, which shall be paid in 36 equal monthly installments beginning in July 2020 with a final payment in June 2023.

The Board shall not reduce the Administrator's salary during the term of the contract, but may increase it and/or the benefits during the term of the contract, as an amendment to the contract, without the amendment constituting a new contract, requiring a hearing, or extending the term of this contract.

Section 4. Deductions. This contract shall conform to the statutes and regulations governing deductions from compensation. The ESU shall withhold other deductions as the Administrator and Board may agree.

Section 5. Professional Status and Representations. The Administrator affirms that she is not under contract with any other board of education or educational service unit covering any part or all of the terms provided in this contract. Throughout the contract term, she will hold a valid and appropriate certificate to act as an Educational Service Unit Administrator in the State of Nebraska which she will register and maintain on file in the ESU's central administrative office. This contract shall not be valid and the Board will not compensate the Administrator for any service performed prior to the date that she registers her certificate. The Administrator represents that: (1) all information she provided in connection with her application for employment with the ESU was true and accurate at the time of application, and if there is or has been a material change in such information, she will advise the Board immediately, (2) she has never been convicted of or plead no contest to a felony as defined in Title 92, Chapter 21, Sections 003. 11 and 003. 13 of the Nebraska Administrative Code ("Rule 21"), or any offense involving moral turpitude, abuse, neglect, or sexual misconduct, as defined in Title 92, Chapter 21, Sections 003. 12 and 003. 13 of the Nebraska Administrative Code, and (3) she has not had any professional licenses or certificates suspended or revoked.

Section 6. Administrator's Duties. The Administrator's duties shall be as prescribed by statute and by Board policies, rules, regulations, and directives. The Administrator agrees to devote her time, skill, labor, and attention to her duties throughout the contract term. She shall be subject to the direction and control of the Board at all times and shall perform such administrative duties as the Board assigns to her. By agreement with the Board, she may undertake consultative work, speaking engagements, writing, lecturing, or other professional duties and obligations as long as they do not interfere with carrying out the duties and obligations to the ESU.

Section 7. Board-Administrator Relationship. The Board shall be primarily responsible for formulating and adopting policy. The Administrator shall be the chief administrative officer for the ESU and shall be responsible for implementing Board policy. She shall organize the administrative and supervisory staff, and select, place, and transfer personnel with the concurrence of the Board. She is responsible for administering the business affairs of the ESU. The Board members agree, individually and collectively, to promptly refer all criticisms, complaints, and suggestions called to their attention to the Administrator for action, study, and/or recommendation, as appropriate.

Section 8. Cancellation or Mid-Term Amendment. The Board may cancel or amend this contract during its term for suspension of the Administrator's Nebraska Administrative and Supervisory Certificate by the State Board of Education; (b) the breach of any of the material provisions of this contract; (c) incompetence; (d) neglect of duty; (e) unprofessional conduct; (f) insubordination; (g) conduct involving moral turpitude; (h) physical or mental incapacity; (i) immaturity; (j) felony conviction; (k) any conduct that substantially interferes with the Administrator's continued performance of her duties; (l) any arrest, criminal charge, or criminal conviction of the Administrator or the failure to report the same; (m) any filing against the Administrator under Neb. Rev. Stat. Section 43-247 or any other provision of the Nebraska Juvenile Code for child abuse and/or neglect or the failure to report the same; (n) knowingly falsifying ESU records or documents; (o) misrepresentation of fact to the ESU and its personnel in the conduct of the ESU's official business; (p) the use or possession of illegal drugs or controlled substances except as prescribed by a physician; or (q) being under the influence of illegal drugs, controlled substances, or alcohol while on ESU or member schools grounds, at ESU events, or in a vehicle owned, leased, or contracted by the ESU except as prescribed by a physician. The procedures for cancellation or amendment shall be in accordance with State statutes. The parties agree that the Administrator's failure to comply with her duties under Section 2 (Renewal of Contract) or Section 15 (Evaluation) shall constitute a material breach of this contract.

Section 9. Disability. If the Administrator is unable to perform her duties by reason of illness, accident, or other disability beyond her control, and the disability continues for a period of more than 120 days or if the disability is permanent, irreparable, or of such a nature as to make performance of her duties

impossible, the Board may initiate action to cancel this contract, whereupon the respective rights, duties and obligations of the parties hereunder shall terminate, with the exception of any benefits to be paid the Administrator under any insurance coverage furnished by the ESU.

Section 10. Transportation. The Board shall provide the Administrator with transportation or reimburse her for mileage required in the performance of her official duties at the rate approved by the Board.

Section 11. Fringe benefits. The Board shall provide the Administrator with the following fringe benefits:

a. Insurance. The Board shall provide insurance benefits equal to that made available by the Board to members of ESU professional staff members.

B. Sick leave. The administrator shall be entitled to twenty-four (24) days of sick leave per year which may accumulate to a total of forty-five (45) days. Sick leave may be used only for personal illness or as otherwise provided in ESU policy. The Administrator shall keep complete and accurate records of her sick days, and shall provide the Board with a report of her accumulated sick days at least annually. The Administrator shall not be compensated for unused days of sick leave upon the ending of her employment with the ESU.

c. Vacation. The Administrator shall have twenty (20) vacation days for the 2020-2021 contract year which she may use at times she chooses as long as her absence does not interfere with the proper performance of her duties. Any extended vacation period while member schools are in session will require advance approval by the Board. After the 2020- 2021 contract year, the Board shall give the Administrator the number of days necessary to restore her total to twenty (20) days. The Administrator shall use the ESU 10 ODIE System for recording her vacation days and shall keep such records current and on file in the ESU's central office. The Administrator shall keep complete and accurate records of her vacation days and shall provide the Board with a report of her accumulated vacation days at least annually. The board may require her to use her vacation days and shall compensate her for unused vacation days upon the conclusion of her employment at the rate of \$100.00 per day.

d. Professional Development. The Administrator is expected to continue her professional development and to participate in relevant learning experiences. With the approval of the Board, she may attend appropriate professional meetings at the local, state, regional, and national level; and the Board will pay for valid expenses of attendance.

e. Professional Dues. The ESU will pay the annual dues for the Administrator's membership in the AESA, ESUCC, NCSA, and Greater Nebraska Superintendents.

f. Physical Examination. The Administrator may voluntarily undergo a physical examination. Up to \$100 of the cost of the physical examination which is not paid for by the Administrator's insurance coverage shall be paid by the ESU.

g. Bereavement Leave. The Administrator shall be permitted bereavement leave. The Administrator shall be permitted bereavement leave as provided in ESU policy.

h. Holidays. The Administrator shall receive paid holidays as provided in ESU policy.

i. Expense Reimbursement. The Board shall pay or reimburse the Administrator for expenses that are actually, necessarily, and reasonably incurred in attending educational seminars, conventions, workshops, conferences, training programs, official ESU functions, hearings or meetings, provided that (1) such payment of expense is authorized by the Local Government Miscellaneous Expenditures Act (Neb. Rev. Stat. 13-2201 et seq) or some other provision of law, and (2) the Administrator shall secure the prior approval of the Board before incurring any such expense when the anticipated aggregate expense of any single event is \$1,000 or more.

Section 12. Residence/ Domicile in ESU. The Administrator shall have her domicile and principal residence within the boundaries of the ESU as they exist on the first duty day for the Administrator under the terms of this contract; and, the Administrator shall maintain her domicile and residence within the boundaries of the ESU during the term of the agreement, or any renewal,

amendment, or continuation thereof. If the Administrator is in her first year of employment with the ESU and does not have her domicile and principal place of residence within the ESU at the time of employment, the Administrator shall move her domicile and principal place of residence into the limits of the ESU before expiration of the first 12 months. The purposes of this paragraph are to encourage the Administrator: (1) to be highly motivated and deeply committed to the ESU's educational system; (2) to speak to and vote on ballot issues affecting the ESU as a legal voter of the ESU; (3) to be involved in the ESU and activities bringing her in contact with patrons and community leaders; and (4) to gain sympathy and understanding for the cultural basis of the communities within the ESU, and the social, economic, and environmental issues of the children of the ESU school communities.

Section 13. No penalty for Release or Resignation. There shall not be a penalty for the release or resignation of the Administrator from this contract; provided no resignation shall become effective until the expiration of the contract unless it is accepted by the Board, and the Board shall fix the date at which the resignation shall take effect.

Section 14. Compensation Upon Termination and Credit for Accrued Vacation. Upon lawful termination of this contract for any reason, the compensation to be paid hereunder shall be an amount which bears the same ratio to the annual salary specified as the number of months or fraction thereof to the date of such termination bears to the 12 months in the annual salary period in which termination occurs. The Administrator shall refund any portion of the salary she has been paid but had not earned prior to the date of termination of this contract. She shall be paid for any unused vacation days at the daily compensation rate then in effect at the termination of employment.

Section 15. Evaluation. The Board shall evaluate the Administrator as provided in Board policy, which is twice during her first year of employment and at least once each year thereafter. The first year of employment the evaluation shall occur no later than the regular December meeting. The Administrator shall: remind the Board members in writing of this provision no later than its regular November meeting; make her evaluation an agenda item for the regular December board meeting during each year of this contract; and provide them the written evaluation instrument that is on file with the Nebraska Department of Education.

Section 16. Legal Actions. The Board will support the Administrator if there is a legal dispute caused by her carrying out her duties properly. If a legal action, including a professional practice complaint, is threatened or filed against the Administrator as a result of her performance of her duties or her position as Administrator of the ESU, the Board will provide her with a legal defense to the maximum extent permitted by law so long as she acted in good faith and in a manner which she reasonably believes to be in or not opposed to the best interests of the ESU, and with respect to any criminal action or proceeding, had no reasonable cause to believe that her conduct was unlawful.

Section 17. Physical or Mental Examination. The Administrator agrees that, at the request of the Board, she will have a comprehensive physical and/or mental examination performed by one or more licensed physicians or psychologists of the Board's choosing during the term of this contract. In deference to the requirements of the Americans With Disabilities Act and HIPAA, the physician's report to the Board must address whether the Administrator is able to perform the "essential functions" of her position.

Section 18. Disciplinary Action. The parties agree that the Board president may place the Administrator on paid leave by delivering written notice of the same when the Board president determines it is in the best interests of the ESU to do so. The paid leave shall continue unless and until a majority of the Board determines otherwise at a duly convened meeting. The Board may suspend the Administrator without pay for a period not to exceed thirty (30) working days. Prior to suspending the Administrator without pay, the Board president or secretary shall deliver a written notice to the Administrator advising her of the alleged reasons for the proposed action and provided the opportunity to present her version of the facts. Within seven calendar days after receipt of such notice, the Administrator may make a written request to the secretary of the board for a hearing under sections 79- 1234 through 79- 1239. If such a request is not delivered within such time, the action of the Board shall become final.

Section 19. Governing Laws. The parties shall be governed by all applicable state and federal laws, rules, and regulations in performance of their respective duties and obligations under this contract.

Section 20. Amendments to be in Writing. This contract may be modified or amended only in writing and duly authorized and executed by the Administrator and the Board.

Section 21. Severability. If any portion of this contract is declared invalid or unenforceable by a court of competent jurisdiction, such declaration shall not affect the validity or enforcement of the remaining provisions of this contract.

IN WITNESS WHEREOF, the parties have executed this contract on the dates indicated below.

Executed by the Board this 20<sup>th</sup> day of April, 2020.

Board President:  - VP

Board Secretary:  
Member: 

Executed by the Administrator this 20<sup>th</sup> day of April, 2020:

Administrator: 