

Employment Agreement by and between the
Board of Education of the BERNE-KNOX-WESTERLO Central School District
and
TIMOTHY MUNDELL

This AGREEMENT is made by and between the BOARD OF EDUCATION OF THE BERNE-KNOX-WESTERLO CENTRAL SCHOOL DISTRICT (“the Board”), with offices at 1738 Helderberg Trail, Berne, NY 12023 and TIMOTHY MUNDELL, residing at 24 Foreston Circle
Manorville NY 11949 (the “Superintendent”).

WITNESSETH:

WHEREAS, the Board has offered to employ the Superintendent, as Superintendent of Schools of the BERNE-KNOX-WESTERLO Central School District (the “District”) for a term of three (3) years commencing July 1, 2015 through June 30, 2018; and

WHEREAS, the Superintendent has accepted the Board’s offer of employment; and

WHEREAS, it is the parties’ belief that a written contract fully specifying the terms and conditions of the Superintendent’s employment by the District will promote effective communication and true understanding between the parties; and

WHEREAS, the parties have mutually agreed upon the following terms and conditions relative to the Superintendent’s employment by the District;

NOW, THEREFORE, in consideration of the agreements and other good and valuable consideration, the parties agree as follows:

1. **Offer of Employment**

The Board, pursuant to Education Law §1711(3), and in accordance with the resolution duly moved, seconded, and adopted at a meeting held on the 22nd day of June, 2015 hereby offers to employ the Superintendent upon the terms and conditions set forth in this Agreement.

2. **Acceptance by Superintendent**

The Superintendent hereby accepts said offer of employment and agrees to perform to the best of his ability the duties of such position.

3. **Term of Employment**

The Superintendent's term of employment shall be for three (3) years commencing on July 1, 2015 through June 30, 2018 unless further extended or sooner terminated as hereinafter provided. Any extension of the term of the Superintendent's employment shall be in the form of a new agreement, and shall be upon such terms and conditions as the parties shall agree in writing.

4. **Superintendent's Duties and Responsibilities**

The Superintendent shall be the Chief Executive Officer of the District and shall have the power and obligation to perform all those duties and accept all those responsibilities as are:

- (a) set forth in §1711 of the Education Law of the State of New York, including any amendments thereof or successor statutes thereto;
- (b) specified in the Policy Manual of the Board, including but not limited to Policy 4310;
- (c) normally associated with the position of Superintendent of Schools;
- (d) imposed upon or granted to a superintendent of schools under the

provisions of the Education Law or other statute of the State of New York, or by Rule or Regulation of the Commissioner of Education;

(e) imposed, from time to time, by the Board, provided that such are in character and consistent with the position of superintendent of schools.

The Superintendent shall be notified of and shall have the right to attend all meetings of the Board, including executive sessions of the Board, except that the Board may exclude the Superintendent from any portion of a meeting during which the Board is discussing his performance, compensation or employment contract.

5. **Superintendent's Residency**

The Superintendent agrees that he and his immediate family members will become residents of the District on or before June 30, 2016 and shall continue to reside within the District during the term of this Agreement and any extension thereof. In no event shall the Superintendent be required to sell his current home outside of the District or to purchase a home within the District to satisfy such residency requirement. Residency may be established by actually residing full-time at his primary residence within the District, which may include, but is not limited to, rental property. If the Superintendent fails to reside in the District on or after June 30, 2016, the Board may terminate the Agreement without any other cause upon thirty (30) days written notice to the Superintendent.

6. **Certification**

The Superintendent shall at all times during the term of his employment by the District possess a valid certificate to act as a superintendent of schools in the State of New York and that proof of such certification will be provided to the District Clerk upon request. It is expressly

understood that failure to hold and maintain such certification shall be cause for the immediate termination of this agreement and of the employment of the Superintendent.

7. **Compensation**

(a) The Superintendent's salary for the period July 1, 2015 through June 30, 2016 shall be at the annual rate of One Hundred Twenty Five Thousand and 00/100 (\$125,000.00) Dollars. Thereafter, the Superintendent's salary for each year of the Agreement commencing July 1st of each year, shall be subject to review and evaluation by the Board of Education as set forth in paragraph (b) below.

(b) Prior to July 1st of each year, the Board shall commence a review to examine the Superintendent's performance and appropriate compensation for the succeeding year. It is understood and agreed that any change in the Superintendent's salary and/or fringe benefits shall become effective on the July 1st immediately following the commencement of such review by the Board. It is further understood that in any event, the Superintendent's salary and/or fringe benefits shall not be less than they were the immediately preceding year.

(c) The Superintendent shall be paid in equal installments in accordance with the rules of the Board governing salary payment to other District administrative employees.

(d) The parties agree that the Superintendent shall be eligible for an additional discretionary performance bonus beyond base salary compensation in each year of the contract term. The benchmarks for being eligible for such bonus, percentage increases and the methodology for measurement towards the benchmarks shall be established by the Board of Education and Superintendent as part of the development of goals and objectives process for evaluation which is to be completed no later than October 1 in each year. The determination on providing a discretionary bonus resides with the Board of Education.

8. Performance Evaluation

(a) By October 1st of each year of the term of this Agreement, the Board, in consultation with the Superintendent, shall establish goals and criteria for the purpose of evaluating the Superintendent's performance, and shall present the goals and criteria in written form to the Superintendent. The Board shall devote at least a portion of one meeting prior to July 1st of each year of the Superintendent's employment to an annual evaluation in executive session of his performance. The Board shall reduce said evaluation to writing, and the Superintendent shall be provided with a copy of the evaluation at least ten (10) days prior to the executive session of the Board at which such evaluation will be discussed. The form of the written evaluation instrument shall be mutually agreed upon between the parties.

(b) In or about the month of January of each year, the Board will conduct a mid-year assessment of the Superintendent's progress toward achieving the goals and criteria. In consultation with the Superintendent, the Board may change or modify the goals and criteria, and the Superintendent will be notified, in writing, of any changes or modifications which the Board desires and the Superintendent shall concentrate on those areas.

9. Benefits

The Superintendent shall be entitled to the following benefits during the term of this Agreement:

(a) Health Insurance

The Superintendent shall be entitled to coverage under one of the health, dental and prescription drug plans offered by the District to its employees, on an individual or family basis. The District shall pay 80% of the premium cost for health insurance coverage, including prescription drug coverage, for the Superintendent and family coverage for his spouse and

dependents, if any, during the term of the Superintendent's employment by the District, and the Superintendent shall pay 20% of the total premium cost of such insurance. The District shall pay 75% of the premium cost for dental insurance coverage for the Superintendent and family coverage for his spouse and dependents, if any, during the term of the Superintendent's employment by the District, and the Superintendent shall pay 25% of the total premium cost of such insurance.

(b) Sick Leave

1) The Superintendent shall be entitled to fifteen (15) days of sick leave annually, which shall be credited on his commencement date and on July 1 of each subsequent school year. Sick leave may be used for illness or injury to the Superintendent or a member of his immediate family, requiring the personal attendance of the Superintendent. "Immediate family" shall be defined as spouse, children, stepchildren, parents, stepparents, siblings, mother-in-law, father-in-law, grandparents, nieces, nephews, uncles and aunts. The Board of Education may require a physician's certificate for periods of three (3) or more consecutive workdays.

2) Unused sick leave may be accumulated by the Superintendent from year to year, up to a total of 45 days during the term of this Agreement.

(c) Bereavement Leave

The Superintendent shall be entitled to three (3) days of paid leave due to the death of a member of the Superintendent's immediate family. "Immediate family" shall be defined as spouse, children, stepchildren, parents, stepparents, siblings, mother-in-law, father-in-law, grandparents, nieces, nephews, uncles and aunts.

(d) Personal Leave

The Superintendent shall be entitled to three (3) days of paid personal leave annually, which shall be credited on his commencement date and on July 1 of each subsequent school year. Personal leave may be used for the purpose of conducting personal business which cannot be conducted at any other time. Personal days shall not accumulate.

10. Work Schedule, Holidays, Vacation

The Superintendent shall work a 12 month work year July 1st through June 30th and shall be required to work during the non-holiday days of school recess periods unless vacation entitlement is utilized. Provided school is not in session, the Superintendent shall be entitled to paid holiday leave on the days approved by the District as holidays for 12-month employees. In addition, the Superintendent shall be entitled to twenty (20) paid vacation days annually, credited on July 1 of each year. Vacation days shall be taken by the Superintendent in a manner and a time consistent with the needs of the District and upon consultation with the President of the Board. The Superintendent may “cash in” up to five (5) unused vacation days annually, at the rate of \$350.00 per day, or, in lieu thereof, the Superintendent may carryover up to five (5) days of unused vacation leave each year into the next school year up to a maximum accumulation of twenty-five (25) vacation days at any point in time.

11. Mileage Reimbursement

For travel in the performance of his duties (other than commuting to and from work) and for travel outside the District, the District shall reimburse the Superintendent for mileage at the IRS rate when he is required to use his personal car in the performance of his official duties for such travel. The Superintendent shall submit a monthly voucher for reimbursement of travel expenses to the District’s Assistant Superintendent for Business.

12. **Other Benefits**

(a) **Expense Reimbursement/Professional Dues**

The Superintendent shall be reimbursed for reasonable expenses incurred in the discharge of his duties and approved by the Board, in accordance with District policy. The District shall pay the costs of professional association dues in the American Association of School Administrators (AASA) and the New York State Council of School Superintendents (NYSCOSS). The Superintendent shall be entitled to attend such professional conferences, conventions and meetings, and to incur reasonable and necessary expenses, up to the amount approved and budgeted therefore. Attendance at any out-of-state conferences, conventions or meetings, or any items requiring expenditures beyond the budgeted amount, shall require prior approval of the Board.

(b) **Moving Expenses**

In the event that the Superintendent moves into the District in accordance with the residency requirement in Paragraph 5 of this Agreement, the Board shall reimburse the Superintendent for the reasonable expenses associated with such relocation into the District in an amount not to exceed \$5,000.00.

13. **Cell Phone/Laptop**

The District shall provide the Superintendent with a cell phone, laptop or tablet for his use to conduct District business and for incidental personal use. Such equipment shall remain the property of the District.

14. **Annual Medical Examination**

The Superintendent agrees to have a comprehensive medical examination performed once during each twelve month period of his employment and to file a statement from the examining

physician certifying to his physical competency with the Clerk of the Board. Such statement will be treated as confidential information by the Board, and that portion of the cost of such annual medical examination not covered by the Superintendent's health insurance shall be paid by the District.

15. **Indemnification**

The Board agrees to provide legal counsel and to indemnify the Superintendent against all uninsured financial loss arising out of any claim, demand, suit or judgment by reason of alleged negligence or other conduct resulting in bodily or other injury to any person or damage to the property of any person committed while the Superintendent is acting within the scope of his employment or under the direction of the Board. The Superintendent shall also be entitled to all protections of all New York State statutes providing indemnification and legal defense to officers and employees of the District, including, but not limited to, Public Officers Law §18. The duty to indemnify shall not arise where injury or damage results from intentional wrongdoing or recklessness on the part of the Superintendent.

16. **Other Work**

The Superintendent shall devote his full time, skill, labor and attention to the discharge of his duties as Superintendent during the term of this Agreement, provided, however, that upon prior notice to and approval of the Board, he may undertake consultative work, speaking engagements, writing, lecturing or other professional duties, obligations and activities, with or without remuneration, so long as such activities do not interfere with the full and faithful discharge of his duties and responsibilities as specified herein.

17. **Board Referral**

The Board shall promptly and directly raise with the Superintendent for his study and response, any and all criticisms or complaints regarding the administration of the District or the Superintendent's performance of his duties. Failure to comply with the provisions of this paragraph shall not prevent the Board from presenting any evidence in connection with a proceeding brought pursuant to Paragraph 18 of this Agreement.

18. **Termination**

(a) Should the Superintendent be unable to perform his duties by reason of illness, accident, or other cause beyond his control, and if such disability continues for more than six (6) months, or if said disability is permanent, irreparable, or of such nature as will make the effective performance of his duties impossible with reasonable accommodation as determined by a medical practitioner who is designated by a medical practitioner selected by the District and a medical practitioner selected by the Superintendent, the Board may terminate this Agreement, whereupon the respective duties, rights and obligations of the parties shall terminate.

(b) Throughout the term of this Agreement, the Superintendent shall be subject to discharge for good and just cause, provided that the Board does not arbitrarily or capriciously call for his dismissal. The Superintendent shall have the right to service of written charges, at least thirty (30) days notice of hearing, and a fair hearing to be conducted by a hearing officer selected by the Board from a list of arbitrators provided by the American Arbitration Association as qualified to serve as hearing officers pursuant to Education Law §3020-a. If the Superintendent chooses to be represented by legal counsel at such hearing, said legal expenses shall be borne solely by the Superintendent. The Superintendent shall receive his full pay and benefits as provided by this Agreement until the completion of said hearing and the

final decision of the arbitrator. The decision of the arbitrator shall contain express findings of guilt or innocence on each of the charges and/or specifications thereto. The decision of the arbitrator shall constitute a recommendation to the Board of Education, whose decision shall be based solely upon the record of the proceeding before the arbitrator. Both parties retain their right to appeal the decision of the arbitrator to any forum having jurisdiction.

19. **Consideration of Renewal**

On or before January 1, 2018, the Board shall consider whether to extend the Superintendent's employment commencing on July 1, 2018, or whether the Superintendent's term will expire on June 30, 2018. The Board shall confidentially notify the Superintendent within twenty (20) days of the results of any such consideration. The Superintendent shall provide the Board with at least six (6) months written notice of his intention to terminate his employment with the District during the term of this Agreement. The Board's failure to consider an extension of the Superintendent's employment as set forth herein shall not be deemed a breach of this Agreement and shall not serve to extend the term of this Agreement.

20. **Written Agreement**

This Agreement shall continue in full force and effect for the term expressed herein unless otherwise terminated, modified or extended in accordance with the terms of this Agreement, and shall not be susceptible to oral modifications, nor shall parole evidence be admissible to establish any oral modification thereof.

21. **Paragraph Headings**

The paragraph headings contained in this Agreement are intended for convenience of reference only. If there is a conflict between any such heading and the text of this Agreement, the text shall control.

22. **Severability**

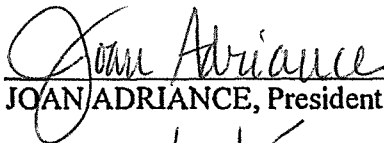
The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision.

23. **Distinguished Educator(s)**

Consistent with and pursuant to Education Law §211-B(5)(a) the Superintendent shall cooperate fully with any distinguished educator(s) appointed by the Commissioner of Education.

BOARD OF EDUCATION OF THE
BERNE-KNOX-WESTERLO
CENTRAL SCHOOL DISTRICT

By:


JOAN ADRIANCE, President

Dated: 6/22/15


TIMOTHY MUNDELL

Dated: 6/22/15

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