

## CONTRACT OF EMPLOYMENT

This Agreement, made this \_\_\_\_ day of \_\_\_\_\_ 2023, between The ORANGE BOARD OF EDUCATION in Essex County (hereinafter “the Board”) with offices located at 451 Lincoln Avenue, Orange, New Jersey and DR. GERALD FITZHUGH, II (hereinafter “the Superintendent”).

### PREAMBLE WITNESSETH

**THIS EMPLOYMENT CONTRACT** replaces and supersedes all prior Employment Contracts between the parties hereto. Signature of this Contract constitutes assent to a rescission of any and all prior contracts, as well as agreement to the terms herein;

**WHEREAS**, the Board desires to employ the Superintendent as the Chief Education Officer of the school district; and,

**WHEREAS**, the Board desires to provide the Superintendent with a written employment contract in order to enhance administrative stability and continuity within the schools, which the Board believes generally improves the quality of its overall educational program; and,

**WHEREAS**, the Board and the Superintendent believe that a written employment contract is necessary to describe specifically their relationship and to serve as the basis of effective communication between them as they fulfill their governance and administrative functions in the operation of the education program of the schools; and,

**WHEREAS**, the Superintendent is the holder of an appropriate certificate as prescribed by the State Board of Education and as required by *N.J.S.A. 18A:17-17*;

**WHEREAS**, the parties hereby rescind the prior contract of employment effective July 1, 2020, and hereby enter into this Employment Contract.;

**NOW, THEREFORE**, in consideration of the following mutual promises and obligations, the

parties agree as follows:

**ARTICLE I**  
**EMPLOYMENT**

The Board hereby agrees to employ **DR. GERALD FITZHUGH, II** as Superintendent of Schools for the period of July 1, 2023, through 11:59 p.m. June 30, 2028. The parties acknowledge that this Contract must be approved by the Essex County Executive County Superintendent in accordance with applicable law and regulation.

**ARTICLE II**  
**CERTIFICATION**

The parties acknowledge that the Superintendent currently possesses the appropriate New Jersey administrative certification and school administrator endorsement (attached as Exhibit A).

If, at any time during the term of this Contract, the Superintendent's certification(s) is revoked, this Contract shall be null and void as of the date of the revocation. The Superintendent will provide official course transcripts for all earned post-secondary degrees to the Board of Education. These transcripts will be kept on file in the Board office. (Attached as Exhibit B.)

**ARTICLE III**  
**DUTIES**

In consideration of the employment, salary and fringe benefits established hereby, the Superintendent hereby agrees to the following:

A. To perform faithfully the duties of Superintendent of Schools for the Board and to serve as the chief school administrator in accordance with the laws of the State of New Jersey, Rules and Regulations adopted by the State Board of Education, existing Board policies and those which are adopted by the Board in the future. The specific job description adopted by the Board, applicable to the position of Superintendent of Schools, is incorporated by reference into this Contract, (attached as Exhibit C).

B. To devote the Superintendent's full time, skills, labor, and attention to this employment during the term of this Contract. Should the Superintendent choose to engage in such outside activities on weekends, on his vacation time, or at other times when he is not required to be present in the district, he shall retain any honoraria paid. The Superintendent shall notify the Board President in the event he is going to be away from the district on district business for two (2) or more days in any week. Any time away from the district that is not for district business must be arranged in accordance with provisions in this Contract governing time off. The Board recognizes that the demands of the Superintendent's position require him to work long and irregular hours, and occasionally may require that he attend to district business outside of the district.

C. To assume the responsibilities for the selection, renewal, placement, removal, and transfer of personnel, subject to the approval of the Board, by recorded roll call majority vote of the full membership of the Board, and subject to applicable Board policies and directives. The Board shall not withhold its approval of any such recommendation for arbitrary or capricious reasons, all in accordance with *N.J.S.A. 18A:27-4.1*.

D. To non-renew personnel pursuant to *N.J.S.A. 18A:27-4.1*, and to provide a written statement of reasons for non-renewal upon proper request to the employee.

E. To study and make recommendations with respect to all criticisms and complaints, which the Board, either by committee or collectively, shall refer to him. The Superintendent shall have the right to contact the Board's attorney for legal assistance as the need arises in carrying out his duties.

F. To assume responsibility for the administration of the affairs of the school district, including but not limited to programs, personnel, fiscal operations, and instructional programs. All duties and responsibilities therein will be performed and discharged by the Superintendent, or by staff, at the Superintendent's direction.

G. To have a seat on the Board and have the right to speak (but not vote) on all issues before the Board in accordance with applicable law. The Superintendent shall attend all regular and special meetings of the Board, (except where a *Rice* notice has been served upon the Superintendent notifying him that his employment will be discussed in closed session, and the Superintendent had not requested that the meeting be conducted in public, or where the Superintendent has a conflict of interest), and all committee meetings thereof, and shall serve as advisor to the Board and said committees on all matters affecting the school district.

H. To suggest, from time to time, regulations, rules, policies, and procedures deemed necessary for compliance with law and/or for the well being of the school district.

I. To perform all duties incident to the Office of the Superintendent and such other duties as may be prescribed by the Board from time to time. The Superintendent shall, at all times, adhere to all applicable federal and state statutes, rules, regulations, and executive orders, as well as district policies and regulations.

J. The Board shall not substantially increase the duties of the Superintendent by assigning him the duties or responsibilities of another position or title unless the parties agree upon additional compensation commensurate with such increase in duties, the additional compensation shall be reflected in an addendum to this Employment Agreement, and such addendum shall be approved by the Executive County Superintendent.

K. The Board shall acknowledge that the administration and the day-to-day operation of the district falls within the legislatively designated authority of the superintendent. The Board further acknowledges that the Board's legislatively designated role is to ensure that administrative authority is exercised consistently with the laws of the state as well as the duly adopted policies of the Board such that no exercise of administrative authority can be fairly characterized as arbitrary, capricious, or unreasonable.

**ARTICLE IV**  
**SALARY AND BENEFITS**

A. Any adjustment in salary made during the life of this Employment Contract shall be in the form of an amendment and shall become part of this Employment Contract, but it shall not be deemed that the Board and the Superintendent have entered into a new employment contract.

1. Salary. The Board shall provide the following salary as part of the Superintendent's compensation: Salary. The Board shall pay the Superintendent an annual salary of Two Hundred Sixty Thousand Dollars. This annual salary rate shall be paid to the Superintendent in accordance with the schedule of salary payments in effect for other certified employees. Beginning on July 1, 2023, and on each subsequent July 1 during the term of this contract, the Board shall provide the Superintendent with a salary increase of three percent (3%) over the previous year.

2. Notwithstanding the foregoing, no salary increase of any kind will take effect on midnight June 30, 2028 (the final day of this Contract) unless the parties have agreed to a contract extension and that extension has been approved by the Essex County Executive County Superintendent. The terms of the extension will govern all increases to take effect after July 1, 2028. Any renewal, extension, or modification of this Contract shall comply with the notice provisions of *P.L.2007, c. 53, The School District Accountability Act* and *N.J.A.C. 6A: 23A-3.1, et seq.*

4. No Reduction in Salary/Compensation. During the term of this Employment Contract, including any extension hereof, the Superintendent shall not be reduced in compensation and/or benefits except as otherwise provided by law.

B. Sick leave. The Superintendent shall receive 12 sick days annually. Unused sick leave days shall be cumulative in accordance with the provisions of Title 18A.

1. Supplemental compensation from accrued but unused sick leave shall not exceed \$15,000 unless:

a. the Superintendent has accrued more than \$15,000 in unused sick leave by virtue of direct service to the district or to another district credited by the Board prior to the effective date of this Contract, pursuant to N.J.S.A. 18A:30-3.5; and

b. such compensation shall be payable only at the time of retirement from a state or locally administered retirement system, and shall be based on accrued but unused sick leave credited on the date of retirement. Accumulated unused sick leave compensation shall not be paid to the Superintendent's estate or beneficiaries in the event of death prior to retirement.

C. Professional Membership. The Superintendent shall be entitled to membership, at the Board's expense for professional dues in the following professional associations: NJASA, AASA, and the Essex County Administrators Association and/or other organizations deemed important by the Superintendent and the Board. (Attached as Exhibit E.) The Superintendent also shall be entitled to reimbursement for expenses incurred for attendance at professional conferences pending Board approval, and similar expenses which he may incur while discharging the duties of Superintendent in accordance with *P.L. 2007, c. 53, The School District Accountability Act* and affiliated regulations. (*N.J.S.A. 18A: 11-12 and N.J.A.C. 6A:23A-7, et seq.*). Such reimbursement shall comply with all applicable provisions of state and federal statutory and regulatory provisions and guidance, and with board policy. In addition to the above, the Superintendent shall be entitled to attend the annual NJSBA/NJASA/NJASBO Workshop and Convention and the annual conference of the NJASA, and the UCEA Conferences. Reimbursement or payment for such expenses shall be made in accordance with *P.L. 2007*.

The Board shall pay all costs and fees associated with any state-mandated continuing education.

D. Professional Publications. The Superintendent may subscribe to appropriate educational and/or professional publications within the limit set in the annual budget.

E. Health Benefits:

1. The Board may provide the Superintendent with individual or family health benefits

coverage. The Superintendent shall pay the premium costs for all such coverages set forth in Chapter 78, P.L. 2011, or Chapter 44, P.L. 2020, whichever is applicable. Such limitation shall in no way link this Contract with any agreement collectively negotiated with district employees. The premium shall be paid by the Superintendent through payroll deduction.

2. The Superintendent may waive coverage in any of the health benefits plans if covered through a spouse, civil union or domestic partner's health plan, and in accordance with procedures established by the Board. The Superintendent will be paid the lesser of (twenty-five percent) 25% or (Five Thousand Dollars) \$5,000 of the cost of said coverage for waiving such coverage.

F. Vacation Leave:

1. The Superintendent shall be entitled to an annual vacation of 22 working days per year, prorated. All of the vacation days shall be available for the Superintendent's use on July 1 of each year of the Contract.

2. The Superintendent shall take his vacation time after giving the Board President reasonable notice. School vacations *do not* constitute time off for the Superintendent, unless he uses his leave time. The Superintendent may take vacation days during the school year, upon notice to the Board President. The Superintendent is expected to attend to the business of the district as required for the smooth and efficient operation of the school district. The Superintendent shall document the use of accrued vacation days with the Board Secretary.

3. The Board encourages the Superintendent to take his full vacation allotment each year; however, not more than 10 vacation days may be carried over by the Superintendent from year to year. All days carried over must be used in the next year, or those days not taken will be forfeited.

4. Vacation leave not taken in a given year because of duties directly related to a state

of emergency declared by the Governor may accumulate at the discretion of the board until, pursuant to a plan established by the board and the Superintendent, the leave is used or the Superintendent is compensated for that leave.

5. In the event that the Superintendent's Contract is terminated prior to its expiration, unused vacation time shall be paid on a pro-rated basis of 1.83 days accrued per month multiplied by his per diem rate. In the event this Contract is not renewed, earned but unused vacation time will be paid at the Superintendent's per diem rate. However, at the Board's discretion, should termination or non-renewal occur, the Board reserves the right to require the Superintendent to use his full vacation entitlement. Throughout this contract, the per diem rate shall be calculated as 1/260 of the Superintendent's then-current salary.

G. Holiday Leave. The Superintendent shall be entitled to all holidays granted to other administrators in the district, including winter and spring breaks.

H. Personal Leave. The Superintendent shall be entitled to 3 personal days, to attend to personal business during the school day, with full pay during the work year. Personal days may be taken during the school year with prior notice to the Board President if possible. As much advance notice as possible of the need to take personal time will be given. Personal day usage shall be reflected on time-off slips filed with the Board Secretary. Personal days are non-cumulative and non-reimbursable.

I. Mileage Reimbursement. The Superintendent shall be reimbursed for actual mileage when using his personal vehicle for Board business as annually established by the Annual Appropriations Act or the New Jersey Office of Management and Budget. Reimbursement for the use of a personal vehicle shall be tendered only upon proof of compliance with applicable regulations.

J. Attendance Record. The Superintendent shall be responsible for utilizing the district's

attendance management system and recording his time off, as set forth herein, each time leave is taken. The Superintendent and Board President shall periodically review the Superintendent's attendance record to assure correctness.

K. Professional Liability. The Board agrees that it shall defend, hold harmless, and indemnify the Superintendent from any and all demands, claims, suits, actions, and legal proceedings brought against the Superintendent in his individual capacity or in his official capacity as agent and/or employee of the Board, provided the incident, which is the subject of any such demand, claim, suit, action or legal proceeding, arose while the Superintendent was acting within the scope of his employment. If, in the good faith opinion of the Superintendent, a conflict exists in regard to the defense of any claim, demand or action brought against him, and the position of the Board in relation thereto, the Superintendent may engage his own legal counsel, in which event the Board shall indemnify the Superintendent for the costs of his legal defense. The Board further agrees to cover the Superintendent under the Board's liability insurance policies, including employment practices liability coverage.

L. Computer. The District shall provide the Superintendent with a laptop computer for the use of District business during the years of the Contract. Reasonable personal use of the laptop shall be permitted.

M. Cellular Phone. The District shall provide the Superintendent with a cellular phone for the use of District business during the years of the Contract. Reasonable personal use of the cellular phone shall be permitted.

## **ARTICLE V** **ANNUAL EVALUATION**

A. The Board shall evaluate the performance of the Superintendent at least once a year, on or

before June 30<sup>th</sup>, in accordance with statutes, regulations, and Board policy relating to Superintendent evaluation. Each annual evaluation shall be in writing and shall represent a majority of the Board. A copy of the evaluation shall be provided to the Superintendent, and the Superintendent and the Board shall meet to discuss the findings. The Board may meet in closed session to discuss the evaluation and the Superintendent's performance where a *Rice* notice has been served upon the Superintendent, giving notice that the Superintendent's employment will be discussed in closed session, and the Superintendent has not requested that the meeting be conducted in public. The evaluations shall be based upon the criteria adopted by the Board, the goals and objectives of the district, which shall include encouragement of student achievement, the responsibilities of the Superintendent as set forth in the job description for the position of Superintendent, the district's placement on the NJQSAC continuum (with respect to those DPRs that are within the Superintendent's control), and such other criteria as the State Board of Education shall by regulation prescribe. In the event that the Board determines that the performance of the Superintendent is unsatisfactory in any respect, it shall describe in writing, and in reasonable detail, the specific instances of unsatisfactory performance. The evaluation shall include specific recommendations for improvement in all instances where the Board deems performance to be unsatisfactory. The Superintendent shall have the right to respond in writing to the evaluation; this response shall become a permanent attachment to the Superintendent's personnel file upon the Superintendent's request. On or before June 1st of each year of this Employment Contract, the Superintendent and the Board shall meet to review the evaluation format and to mutually determine the evaluation format to be used in the subsequent school year.

The final draft of the annual evaluation shall be adopted by the Board by June 30 of each year of this Contract. The Superintendent shall propose a schedule for evaluation for the next year to the Board President by the annual organization meeting each year.

B. Within ninety (90) days of the execution of this Employment Contract, the parties shall meet to establish the district's goals and objectives for the ensuing school year. Said goals and objectives shall be reduced to writing and shall be among the criteria by which the Superintendent is evaluated, as hereinafter provided. On, or prior to, June 1 of each succeeding school year, the parties will meet to establish the district's goals and objectives for the next succeeding school year, in the same manner, and with the same effect as heretofore described.

C. The parties also agree that the Board shall not hold any discussions regarding the Superintendent's employment, unless the Superintendent is given written notice at least 48 hours in advance and is given the opportunity to address the Board in closed session with a representative.. In addition, the Board shall not hold any discussions with regard to the Superintendent's performance, or that may adversely affect the Superintendent's employment, in public session, unless the Superintendent requests that such discussions be held in public session, pursuant to the Open Public Meetings Act.

## **ARTICLE VI** **RIGHTS AND REMEDIES**

A. This Contract shall terminate, the Superintendent's employment will cease, and no compensation shall thereafter be paid, under any one of the following circumstances:

(1) failure to possess/obtain proper certification;

(2) revocation or suspension of the Superintendent's certificate, in which case this Contract shall be null and void as of the date of revocation, as required by *N.J.S.A. 18A:1715.1*;

(3) forfeiture under *N.J.S.A. 2C: 51-2*;

(4) mutual agreement of the parties;

(5) notification in writing by the Board to the Superintendent, on or before January 1, 2028, of the Board's intent not to renew this Contract; or

(6) misrepresentation of employment history, educational and professional credentials, and

criminal background.

B. The Superintendent may terminate this Employment Contract upon at least 90 calendar days written notice to the Board, filed with the Board Secretary, of his intention to resign.

C. The Superintendent shall not be dismissed or reduced in compensation during the term of this Contract, except as authorized by paragraphs B. and C. *supra* and N.J.S.A. 18A:17-20.2.

**ARTICLE VII**  
**RENEWAL - NON RENEWAL**

This Employment Contract shall automatically renew for a term of 5 calendar years, expiring July 1, 2033, unless either of the following occurs:

- A. the Board by contract reappoints the Superintendent for a different term allowable by law;
- B. the Board notifies the Superintendent in writing, prior to January 1, 2028, that he will not be reappointed at the end of the current term, in which case his employment shall cease upon the expiration of this Contract; or
- C. in accordance with such laws and regulation that would require nullification of this Contract.

**ARTICLE VIII**  
**COMPLETE AGREEMENT**

This Contract embodies the entire agreement between the parties hereto and cannot be varied except by written agreement of the undersigned parties.

**ARTICLE IX**  
**SAVINGS CLAUSE**

If, during the term of this Contract, it is found that a specific clause of the Contract is illegal under federal or state law, the remainder of the Employment Contract is not affected by such a ruling and shall remain in full force.

**ARTICLE X**  
**RELEASE OF PERSONNEL INFORMATION**  
**PERSONNEL RECORDS**

The Superintendent shall have the right, upon request, to review the contents of his personnel file and to receive copies at Board expense of any documents contained therein. He shall be entitled to have a representative accompany him during such review. At least once every year, the Superintendent shall have the right to indicate those documents and/or other materials in his file that she/he believes to be obsolete or otherwise inappropriate to retain; and, upon final approval of the Board, such documents identified by him shall be destroyed.

No material derogatory to the Superintendent's conduct, service, character, or personality shall be placed in his personnel file unless he has had an opportunity to review the material. The Superintendent shall acknowledge that he has had the opportunity to review such material by affixing his signature to the copy to be filed with the express understanding that such signature in no way indicates agreement with the contents thereof. The Superintendent shall also have the right to submit a written answer to such material.

**IN WITNESS WHEREOF**, the parties have set their hands and seals to this Employment Contract effective on the day and year first above written.

SUPERINTENDENT

BOARD OF EDUCATION OF THE  
**ORANGE SCHOOL DISTRICT**

\_\_\_\_\_  
**DR. GERALD FITZHUGH, II**

\_\_\_\_\_  
**Shawneque Johnson, President**

Date: March 2023

Date: March 20223

WITNESS:

WITNESS:

\_\_\_\_\_

\_\_\_\_\_