

**NORTH CAROLINA**

**EMPLOYMENT CONTRACT**

**WAKE COUNTY**

**THIS AGREEMENT**, made and entered 18th day of April, 2006, by and between the Wake County Board of Education, hereinafter referred to as "Board," and Adelphos Burns, hereinafter referred to as "Superintendent";

**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;

**NOW, THEREFORE**, the Board and the Superintendent, for the consideration herein specified, agree as follows:

**1. TERM**

The Board, in consideration of the promises herein contained of the Superintendent, hereby employs Adelphos Burns as Superintendent of Schools for a term beginning July 1, 2006 and ending June 30, 2010. In subsequent years, the Board will consider whether by specific action and with the consent of the Superintendent to extend the termination date of the existing contract to the extent permitted by state law.

**2. PROFESSIONAL LICENSE AND RESPONSIBILITIES OF SUPERINTENDENT**

A. **LICENSURE.** The Superintendent shall furnish throughout the term of his employment as Superintendent a valid and appropriate license to act as Superintendent as prescribed by the laws of this state and by the regulations of the State Board of Education.

B. DUTIES. The Superintendent shall have charge of the administration of the schools under the direction of the Board. He shall be the chief executive officer of the Board; shall serve as secretary to the Board; and be entitled to attend all Board and Board committee meetings (unless the Board has entered closed session to discuss his own performance); shall direct and assign teachers and other employees of the schools under his supervision; shall organize, reorganize and arrange the administrative and supervisory staff, including instruction and business affairs, as best serves the Wake County Public School System, provided the Superintendent shall consult with the Board prior to the administrative transfer of any school principal(s); shall select all personnel subject to the approval of the Board; shall have the authority to immediately accept resignations of personnel for and on behalf of the Board; shall from time to time suggest regulations, rules and procedures deemed necessary for the well ordering of the school district; and in general shall perform all duties incident to the office of the Superintendent and such other duties as may be prescribed by law or by the Board from time to time, including but not limited to any duties identified by the Board in establishing the Superintendent's annual performance criteria. The Board individually and collectively, shall promptly refer all criticisms, complaints, and suggestions called to its attention to the Superintendent for study and recommendation and shall refrain from individual interference with the administration of school policies except through Board action. This is an agreement for the performance of professional services as superintendent by the Superintendent, who shall not be assigned to any other position during the term of this contract.

### 3. COMPENSATION

A. ANNUAL AGGREGATE SALARY. The Superintendent shall be paid an annual aggregate salary in the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00). The annual aggregate salary paid the Superintendent from state and local funds shall be paid in equal monthly installments in accordance with the rules of the Board governing payment of other professional employees of the school administrative unit. The aggregate salary paid the Superintendent shall be

increased by the amount of three percent (3%) annually, effective July 1, 2007. At no time shall the annual aggregate salary of the Superintendent be decreased during the term of this contract.

B. LONGEVITY. In addition to his annual aggregate salary the Superintendent shall receive longevity pay based on the state schedule and local Board policy.

#### 4. VACATION AND OTHER BENEFITS

A. The Superintendent shall receive annual leave and sick leave as provided by state law and North Carolina State Board of Education regulations. Annual leave and sick leave shall be taken in accordance with Board policy and State Board of Education regulations. Vacation and sick leave may be carried forward as provided by law and Board policy, and payment for any accrued and unused vacation leave at the termination of this contract shall be made in accordance with Board policy and State Board of Education regulations.

B. The Board shall pay the full premium for family medical and dental and individual vision insurance coverage for the Superintendent during the term of employment under any plan approved for other professional employees of the school administrative unit. In addition, the Superintendent shall be reimbursed for membership in a wellness center for himself annually.

C. The Superintendent shall receive at least the same life and health insurance coverage, terminal pay and other personal benefits, including the use of any "cafeteria benefits plan" approved by the Board, as provided to other professional employees of the school administrative unit as permitted by law.

D. The Board, at the request of the Superintendent and in accordance with state law, shall withhold and transfer an amount of salary annually or semi-annually or monthly, said amount to be determined by the Superintendent, from the Superintendent's annual salary into any annuity or retirement program chosen by the Superintendent.

E. With prior approval of the Chairman of the Board, the Board shall pay the Superintendent's membership charges for membership in up to seven (7) professional or civic

organizations as the Superintendent feels are necessary to maintain and improve his professional skills, civic involvement, or to advance the mission of the Wake County Board of Education.

F. The Board shall provide the Superintendent with a cellular or digital telephone, a pager, a home fax machine, office and home Internet access, laptop computer, and other electronic devices for effective modern communication. The Superintendent shall be reimbursed for the cost of school business calls made on the cellular or digital phone in excess of any monthly calling limits. All maintenance and other monthly or recurring charges for the electronic equipment provided pursuant to this paragraph shall be at the expense of the Board, and all such equipment shall remain the property of the Board.

G. The Superintendent may convert to a salary supplement up to ten (10) accrued vacation days each year, computed at 1/250 of the Superintendent's aggregate salary. The Superintendent shall notify the Chairman of the Board each time he exercises his option under this section. Compensation received under this section shall not be considered a part of the Superintendent's aggregate annual salary for any other provision of this Agreement.

## **5. PROFESSIONAL GROWTH OF SUPERINTENDENT**

The Board expects the Superintendent to continue his professional development and expects him to participate in relevant learning experiences. The Superintendent should attend appropriate professional meetings at the local and state level, and out-of-state meetings with the prior approval of the Chairman of the Board. The actual expenses of said attendance will be paid from the current operating funds of the Wake County School System in an amount and manner prescribed by Board policy. The Superintendent shall file itemized expense statements with the Finance Officer for reimbursement of these expenses in accord with Board Policy. Request for reimbursements of actual expenses in excess of Board approved per diem must be approved by the Chairman of the Board.

**6. EXPENSES**

The Board shall reimburse the Superintendent for reasonable expenses he incurs on behalf of the Board. The Board recognizes that the Superintendent shall incur such expenses from time to time as the Board's representative in the pursuit of educational excellence, private funding, grants and for other reasons. The Superintendent shall file itemized expense statements with the Finance Officer for reimbursement of these expenses. Reimbursement under this section must be approved by the Chairman of the Board.

**7. TRANSPORTATION**

The Board shall pay the Superintendent seven hundred fifty dollars (\$750.00) per month for all expenses for in-county travel. Out-of-county travel shall be reimbursed as provided for in Section 6 of this Agreement.

**8. BENEFITS OPTION.**

As an inducement to forego retirement or other options which may become available to him, effective January 1, 2007, the Board will permit the Superintendent to forego the benefits provided under Sections 4B and 7 of this Agreement (other than those mandated by State law or regulation) and receive the supplemental salary equivalent to the direct cost of those benefits to the Board, in lieu of receiving those benefits. The supplemental salary the Superintendent receives through this conversion of benefits shall not be considered a part of his aggregate salary for any other provision of this contract.

**9. 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 employee of the Board, provided the incident giving rise to any such demand, claim, suit, action or legal proceeding arose while the Superintendent was acting within the scope of his employment; and provided further, that such liability

coverage is within the authority of the Board to provide under state law. The Board shall provide indemnity from liability as set forth above for all claims made and occurrences throughout the term of this contract and any extensions thereof.

In no case will individual board members be considered personally liable for indemnifying the Superintendent against such demands, claims, suits, actions and legal proceedings.

## **10. MEDICAL EXAMINATION AND DISABILITY**

A. **MEDICAL EXAMINATION.** The Superintendent hereby agrees to have an annual medical examination paid for by the Board. A statement from a licensed physician of the Superintendent's choice, certifying to the physical competency of the Superintendent to fulfill his duties and responsibilities, shall be filed with the Chairman of the Board and treated as confidential information by the Board, and if the Board deems it necessary, the Superintendent agrees to authorize his physician to provide the Board with a copy of the complete results of his medical examination. In the event of illness, the Superintendent, upon request by the Board, shall furnish additional written medical records to the Board and these shall be treated as confidential information.

B. **DISABILITY.** If the Superintendent is unable to perform his essential functions by reason of disability for more than one hundred eight (180) calendar days, and efforts to reasonably accommodate his disability do not enable him to perform his essential functions, the Board will cooperate fully with the Superintendent in his application for disability benefits.

## **11. EVALUATION**

The Board shall meet with the Superintendent by August 31 each year to identify the Superintendent's annual performance goals. The Board shall provide the Superintendent with periodic opportunities to discuss Superintendent-Board relationships. The Board shall provide the Superintendent with a written annual evaluation of his performance no later than August 31 of each year, beginning in August 2007. As part of the annual evaluation process the Board shall determine whether the Superintendent will be awarded an additional salary increase or performance-based

compensation or both. If the Board fails to evaluate the Superintendent and decide upon his compensation by August 31 of each year, the Superintendent shall receive an automatic, additional salary increase in any such year at the greatest amount among the following: 1) the State raise for teachers, 2) the State raise for principals, or 3) 3%.

## **12. CONSULTING AND OUTSIDE EMPLOYMENT**

The duties and responsibilities of the Superintendent require full-time employment and frequently require that the Superintendent attend to his duties during the evenings, weekends and holidays. The Superintendent shall not accept any outside employment that in any manner interferes with the performance of his duties and responsibilities as Superintendent of the Wake County Public School System. The Board grants to the Superintendent, subject to prior approval of the Chairman of the Board, the opportunity to accept private consulting and speaking or teaching engagements and appointments to foundations, boards or commissions that do not interfere with the Superintendent's performance of his duties under this agreement. Annual leave time must be taken to perform any private consulting or other outside employment during normal weekday work hours. The Superintendent shall make a written report to the Board no later than June 1 of each year listing all outside employment he has performed during the preceding year.

## **13. CONFLICT OF INTEREST PROHIBITED**

The Superintendent acknowledges that he has read and understands the conflict of interest statutes of the State of North Carolina and agrees to comply with the statutes and any other State laws or Board policies relating to conflicts of interest.

## **14. TERMINATION**

Throughout the term of this contract the Superintendent shall be subject to discharge for good and just causes as provided by the North Carolina General Statutes § 115C-274 and including but not limited to the grounds specified in § 115C-325(e)(1), provided, however, that the Board does not arbitrarily or capriciously call for his dismissal and that the Superintendent shall have the right to

written charges, a fair hearing before the Board, and ten (10) days' written notice of said charges and hearing. At any such hearing before the Board, the Superintendent shall have the right to be present and to be heard, to be represented by counsel and to present through witnesses any testimony relevant to the issue. A transcript of the record of the proceedings before the Board shall be made available without charge to the Superintendent. If the Superintendent chooses to be accompanied by legal counsel at the hearing before the Board, he will assume the cost of his legal expenses.

#### **15. UNILATERAL TERMINATION BY THE BOARD**

The Board may, at its option, unilaterally terminate this contract. In the event of such termination the Board shall pay to the Superintendent, as severance pay, the annual aggregate salary he would have earned pursuant to Section 3A of this Agreement for the upcoming eighteen (18) months of the contract or the remaining time of the contract, whichever is less. If, however, the Board unilaterally terminates this contract within the first twelve months of employment, the Superintendent shall be entitled to the annual aggregate salary he would have earned pursuant to Section 3A of this Agreement for the upcoming twenty-four (24) months of the Agreement. In the event that the Board offers to terminate the contract by paying the amount specified herein, the right to a hearing before the Board, as specified in Section 14 above, and the right to appeal the Board's actions shall be considered waived by the Superintendent.

#### **16. RESIGNATION**

The Superintendent shall give at least ninety (90) calendar days' written notice to the Board if he intends to resign prior to the end of the term of this contract or extensions thereto. In the event that he fails to give the required notice, the Superintendent agrees to pay the Board Thirty Thousand Dollars (\$30,000) which the parties agree is a reasonable and proper measure of damages that will be incurred by the Board by an untimely resignation by the Superintendent. Furthermore, the Board, in its sole discretion, may terminate this contract at any time after the Superintendent has given written

notice that he intends to resign prior to the end of his term of employment. In such event the Superintendent shall be entitled to be paid through the date of his resignation and paid for any unused state accrued annual leave; the provisions of Section 14 of this contract shall not apply and, if the Superintendent has given 90 days prior written notice of resignation, the \$30,000.00 damage payment described above shall be waived. In addition, if an unexpected severe medical condition or emergency arises that directly involves the Superintendent or his spouse which prevents the Superintendent from giving 90 days prior written notice of resignation, the \$30,000 damage payment described above shall be waived.

**17. AMENDMENT**

The Agreement may be amended during its term by mutual written consent of the Board and the Superintendent. Any such amendment shall be in writing, approved by official action of the Board, and accepted in writing by the Chairman of the Board and the Superintendent.

**18. 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 contract not affected by such a ruling shall remain in force.

**19. LAW**

This Agreement shall be governed by, construed and enforced in accordance with the law of the State of North Carolina.

**20. FILING**

A copy of this contract shall be filed with the Superintendent of Public Instruction in North Carolina.

**21. ENTIRE AGREEMENT**

The parties hereto agree that this instrument contains the entire agreement between them as of this date, and that it has not been induced by either party by any representations, promises or

undertakings not expressed herein, and that there are no collateral agreements, stipulations, promises or understandings whatsoever by the respective parties in any way affecting the subject matter of this contract which are not expressly contained in this instrument.

IN TESTIMONY THEREOF, the Wake County Board of Education has approved this Agreement and caused this instrument to be executed in its name by its Chairman, and duly attested to, all by order and resolution of the Board, and Adelphos Burns has accepted this Agreement and has hereunto set his hand and seal, this the day and year first above written.

SUPERINTENDENT

WAKE COUNTY BOARD OF EDUCATION

Adelphos Burns  
Adelphos Burns



Patti Head  
Patti Head, Chair

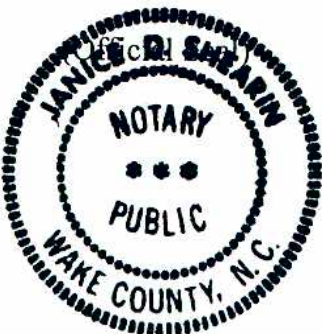
ATTEST:

Carol Parker  
Carol Parker, Vice-Chair

STATE OF NORTH CAROLINA  
COUNTY OF Wake

I, Janice D. Shearin a Notary Public, do hereby certify that Patti Head, personally appeared before me, with whom I am personally acquainted, who, being by me duly sworn, says that Carol Parker, is Vice Chairman of the Board and that she is Chairman of the Wake County Board of Education, the corporation described in and which executed the foregoing and annexed instrument; that she knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, that the name of the corporation was subscribed thereto by said Chairman and that said Chairman and Vice Chairman subscribed their names thereto and said common seal was affixed, all by order of the members of the Wake County Board of Education, and said instrument is the act and deed of said corporation.

Witness my hand and official seal, this the 18<sup>th</sup> day of April, 2006.



Janice D. Shearin  
Notary Public  
My Commission expires: August 21, 2009

STATE OF North Carolina

COUNTY OF Wake

I, Janice D. Shearin, a Notary Public for said County and State, do hereby certify that Adelphos Burns personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal this the 18<sup>th</sup> day of April, 2006.



Janice D. Shearin  
Notary Public  
My Commission expires August 21, 2009