

## SUPERINTENDENT'S EMPLOYMENT CONTRACT

THE STATE OF TEXAS

COUNTY OF ZAVALA

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§

KNOW ALL MEN BY THESE PRESENTS:

THIS AGREEMENT is made effective as of the 23rd day of June, 2009, by and between the Board of Trustees (the "Board") of the La Pryor Independent School District (the "District") and Joe M. Ximenez (the "Superintendent").

### WITNESSETH:

NOW, THEREFORE, the Board and the Superintendent, for and in consideration of the terms hereinafter established and pursuant to Section 11.201(b) and Chapter 21, Subchapter E of the Texas Education Code, have agreed, and do hereby agree, as follows:

### I. TERM

- 1.1 **Contract Term.** The Board, by and on behalf of the District, does hereby employ the Superintendent, and the Superintendent does hereby accept employment as Superintendent of Schools for the District for a two (2) year and eight (8) day term commencing on June 23, 2009 and ending on June 30, 2011.
- 1.2 **Extension of Original Term.** Not later than March 31, 2010, the Board shall conduct a performance evaluation of the Superintendent. In the event that the average evaluation score across all performance categories contained in the evaluation meets the Board's performance expectations, the term of the Superintendent's Contract set forth in Section 1.1 above, shall be extended to June 30, 2012. The District may, by action of the Board, and with the consent and approval of the Superintendent, otherwise extend the term of this Contract as permitted by state law.
- 1.3 **No Tenure.** The Board has not adopted any policy, rule, regulation, law, or practice providing for tenure. No right of tenure is created by this Contract. No property interest, express or implied, is created in continued employment beyond the Contract term.

### II. EMPLOYMENT

- 2.1 **Duties.** The Superintendent is the chief executive of the District and shall faithfully perform the duties of the Superintendent of Schools for the District as prescribed in the job description and as may be lawfully assigned by the Board, and shall comply with all lawful

Board directives, state and federal law, district policy, rules, and regulations as they exist or may hereafter be amended. Specifically, it shall be the duty of the Superintendent to recommend for employment all professional employees of the District subject to the Board's approval. It shall be the further duty of the Superintendent to employ or recommend the employment of all other personnel as lawfully directed by Board Policy. It shall be the further duty of the Superintendent to direct, assign, reassign, and evaluate all of the employees of the District consistent with Board Policy and federal and state law. It shall be the further duty of the Superintendent to organize, reorganize, and arrange the staff of the District, and to develop and establish administrative regulations, rules, and procedures which the Superintendent deems necessary for the efficient and effective operation of the District consistent with the Board's lawful directives, the Board's Policy, and state and federal law. It shall be the further duty of the Superintendent to accept all resignations of employees of the District if permitted by the Board Policy, except the Superintendent's resignation, which must be accepted by the Board. The Superintendent shall perform the duties of the Superintendent of Schools for the District with reasonable care, diligence, skill, and expertise. All duties assigned to the Superintendent by the Board shall be appropriate to and consistent with the professional role and responsibility of the Superintendent.

- 2.2 Professional Certification.** The Superintendent shall at all times during the term of this Contract, and any renewal or extensions thereof, hold and maintain a valid certificate required of a Superintendent by the State of Texas and issued by the Texas State Board of Educator Certification and any other certificates which may from time to time be required by law.
- 2.3 Reassignment.** The Superintendent may not be reassigned from the position of Superintendent to another position without the Superintendent's express written consent.
- 2.4 Board Meetings.** The Superintendent or the Superintendent's designees shall attend all meetings of the Board, both public and closed, with the exception of those closed meetings devoted to the consideration of any action or lack of action on the Superintendent's Contract, the Superintendent's salary and benefits as set forth in the Contract, the Superintendent's evaluation or interpersonal relationships between individual Board members, or other matters designated by the Board.
- 2.5 Criticisms, Complaints, and Suggestions.** The Board, individually and collectively, shall refer in a timely manner all substantive criticisms, complaints, and suggestions called to the Board's attention either: (a) to the Superintendent for study and/or appropriate action, and the Superintendent shall refer such matter(s) to the appropriate District employee or shall investigate such matter(s) and shall within a reasonable time inform the Board of the results of such efforts or, (b) to the appropriate complaint resolution procedure as established by Board Policy.

**2.6 Indemnification.** To the extent it may be permitted to do by applicable law, including, but not limited to Texas Civil Practice & Remedies Code Chapter 102, the District does hereby agree to defend, hold harmless, and indemnify Superintendent from any and all demands, claims, suits, actions, judgments, expenses and attorneys' fees incurred in any legal proceedings brought against Superintendent in the Superintendent's individual or official capacity as an employee and as Superintendent of the District, providing the incident(s), which is (are) the basis of any such demand, claim, suits, actions, judgments, expenses and attorneys' fees, arose or does arise in the future from an act or omission of Superintendent as an employee of the District, acting within the legitimate course and scope of Superintendent's employment with the District; excluding, however, any such demand, claim, suits, actions, judgments, expenses and attorneys' fees for those claims or any causes of action where it is determined that Superintendent committed official misconduct, or committed a willful or wrongful act or omission, or an act or omission constituting gross negligence, or acted in bad faith; and excluding any costs, fees, expenses or damages that would be recoverable or payable under an insurance contract, held either by the District or by Superintendent. The selection of Superintendent's legal counsel shall be with the mutual agreement of Superintendent and the District if such legal counsel is not also District's legal counsel. A legal defense may be provided through insurance coverage, in which case Superintendent's right to agree to legal counsel provided for him will depend on the terms of the applicable insurance contract. This Section 2.6, shall not be construed to exceed the authority provided and limitations imposed by Texas Civil Practice & Remedies Code, Chapter 102,. The provisions of this Section 2.6 shall survive the termination of this Contract.

### III. COMPENSATION

- 3.1 Base Salary.** The District shall provide the Superintendent with an annual salary in the sum of Ninety-three Thousand Five Hundred and NO/100 Dollars (\$93,500.00). This annual base salary shall be paid to the Superintendent in equal installments consistent with the Board's policies.
- 3.2 Salary Increase for Doctoral Degree.** The District shall increase the Superintendent's base salary, set forth in Section 3.1, above, by the annual amount of \$5,000.00 effective on the date that the Superintendent has been officially conferred a doctoral degree in education by an accredited college or university. The amount set forth in this Section shall be prorated over any partial contract year.
- 3.3 Technology Allowance.** The District shall provide the Superintendent with a technology allowance in the monthly sum of One Hundred Dollars (\$100.00).
- 3.4 Personal Leave, Holidays, and Sick Leave.** The Superintendent may take, at the Superintendent's choice, the same number of days of State and local sick and/or personal

leave days as are authorized by policies adopted by the Board for administrative employees on twelve-month contracts. Leave days must be taken in accordance with District Policies. The Superintendent may also observe the same legal holidays as provided by Board policies for administrative employees on twelve-month contracts.

- 3.5 Vacation.** The Superintendent may take, at dates of the Superintendent's choice, ten (10) days of vacation leave per year of this contract. Vacation leave days will accrue on the first day of each contract year, beginning with the July 1, 2009 contract year. For purposes of this provision, a year shall be defined as the period between July 1 and June 30 of the following year. Vacation leave days may be taken in a single period or at different times. However, the Superintendent shall ensure that such leave will be taken at such time or times as will not interfere with the performance of the Superintendent's duties as set forth in this Agreement. Vacation leave days not taken in the year in which they accrue shall not be accumulated, nor shall the Superintendent be entitled to be compensated for unused vacation leave days
- 3.6 Health Insurance.** The District shall pay the premiums for health insurance coverage for the Superintendent only to the group health care or other insurance plan(s) as follows:
- 3.6.1** Health care at the Active Care 3 level, or equivalent
  - 3.6.2** Dental insurance at the standard level of coverage
  - 3.6.3** Vision care at the standard level of coverage.
- 3.7 Moving Expenses.** The District shall reimburse Superintendent for reasonable, documented out of pocket moving expenses incurred in relocation to the District in an amount not to exceed \$1,500.00.
- 3.8 Residence.** The District shall furnish Superintendent with a district-owned residence during the term of this contract. The terms relating to the use of such residence will be governed by the attached lease agreement.
- 3.9 Reasonable Expenses.** The District shall reimburse the Superintendent, in accordance with the provisions of State law and Board Policy, for reasonable and necessary expenses which he may incur in the performance of his duties as Superintendent. Subject to the limits of Board Policy, the District agrees to pay the costs incurred by the Superintendent for approved travel. The Superintendent shall comply with all procedures and documentation requirements in accordance with Board policies.
- 3.10 Professional Development and Civic Activities.** The Superintendent may attend and participate in an appropriate number of professional meetings at the local, state, and national

level with the reasonable expenses of such attendance, including annual membership fees of the Texas Association of School Administrators and the American Association of School Administrators, to be borne by the District. The Superintendent may participate fully in the work of appropriate professional associations to the extent of holding office or accepting the responsibility of assignment if elected or appointed. With the approval of the Board, the Superintendent may undertake writing, consultative work, teaching and speaking engagements provided, however, that the expense of such activities shall not be borne by the District, and that such activities do not detract from the performance of his duties and responsibilities as Superintendent of Schools. However, the Superintendent may not be compensated for such activities (other than reimbursement for actual expenses) unless the Board has authorized the activity at a posted open meeting.

- 3.11 Salary Adjustment.** At any time during the term of this Contract, the Board may, in its discretion, review and adjust the salary of the Superintendent, but in no event shall the Superintendent be paid less than the salary, including any adjustments, set forth pursuant to Section 3.1 and, if applicable, Section 3.2 of this Contract, except by mutual written agreement of the parties. Such adjustments, if any, shall be either in the form of a written addendum to this Contract or in the form of a new Contract at the discretion of the Board of Trustees.

#### **IV. Annual Performance Goals**

- 4.1 Development of Goals.** The Superintendent shall submit to the Board each year, for the Board's consideration and adoption, a preliminary list of goals for the District. The goals approved by the Board shall at all times be reduced to writing ("District Goals") and shall be among the criteria on which the Superintendent's performance is reviewed and evaluated. The Board agrees to work with and support the Superintendent in achieving the District Goals.

#### **V. REVIEW OF PERFORMANCE**

- 5.1 Time and Basis of Evaluation.** The Board shall evaluate and assess, in writing, the performance of the Superintendent at least once each year during the term of this Contract. The evaluation and assessment shall be conducted in accordance with the provisions of State law and/or the administrative regulations issued by the Commissioner of Education and shall be reasonably related to the duties of the Superintendent as outlined in the Superintendent's job description and shall be based, in part, on the District's progress towards accomplishing the District Goals.

**5.2 Confidentiality.** The evaluation of the Superintendent shall at all times be conducted in executive session and shall be considered confidential to the extent permitted by law. Upon written request of the Superintendent, the Board may publish the Superintendent's evaluation. Nothing herein shall prohibit the Board or the Superintendent from sharing the content of the Superintendent's evaluation with their respective legal counsel.

**5.3 Evaluation Format and Procedures.** The evaluation format and procedure shall be in accordance with the evaluation instrument selected by the Board in accordance with Article V of this Contract, the Board's policies, and state and federal law. In the event the Board deems that the evaluation instrument, and/or procedure is to be modified by the Board and such modifications would require new or different performance expectations, the Superintendent shall be provided a reasonable period of time to demonstrate such expected performance before being evaluated.

## **VI. EXTENTION OR NONRENEWAL OF EMPLOYMENT CONTRACT**

**6.1 Extension/Nonrenewal.** Extension and/or nonrenewal shall be in accordance with Board policy, Texas Education Code Chapter 21, Subchapter E, and applicable law. Notwithstanding anything to the contrary in Section 21.212(a) of the Texas Education Code, the Superintendent shall be entitled to written notice, containing reasonable notice of the reason for the proposed nonrenewal, not later than 45 days before the last day of the contract term, containing reasonable notice of the reason(s) for the proposed nonrenewal of the Superintendent's Contract with the District.

## **VII. TERMINATION OF EMPLOYMENT CONTRACT**

**7.1 Mutual Agreement.** This Contract may be terminated by the mutual agreement of the Superintendent and the Board in writing upon such terms and conditions as may be mutually agreed upon.

**7.2 Retirement or Death.** This Contract shall be terminated upon the retirement or death of the Superintendent.

**7.3 Dismissal for Good Cause.** The Board may dismiss the Superintendent during the term of the Contract for good cause. The term "good cause" is defined as follows:

- (a) Failure to fulfill duties or responsibilities as set forth under the terms and conditions of this Contract;
- (b) Incompetence or inefficiency in the performance of required or assigned duties as documented by evaluations, supplemental memoranda, or other written communication from the Board; provided, however, the terms and conditions of this

paragraph shall not justify good cause unless the Board has provided the Superintendent a reasonable opportunity to remediate any incompetency or inefficiency;

- (c) Insubordination or failure to comply with lawful written Board directives;
- (d) Failure to comply with the Board's policies or the District's administrative regulations;
- (e) Neglect of duties;
- (f) Drunkenness or excessive use of alcoholic beverages;
- (g) Illegal use of drugs, hallucinogens, or other substances regulated by the Texas Controlled Substances Act;
- (h) Conviction of a felony or crime involving moral turpitude;
- (i) Failure to meet the District's standards of professional conduct;
- (j) Failure to comply with reasonable District professional development requirements regarding advanced course work or professional development;
- (k) Disability, not otherwise protected by law, that impairs performance of the required duties of the Superintendent;
- (l) Immorality, which is conduct the Board determines is not in conformity with the accepted moral standards of the community encompassed by the District. Immorality is not confined to sexual matters, but includes conduct inconsistent with rectitude or indicative of corruption, indecency, or depravity;
- (m) Assault on an employee or student;
- (n) Knowingly falsifying records or documents related to the District's activities;
- (o) Conscious misrepresentation of facts to the Board or other District officials in the conduct of the District's business;
- (p) Failure to fulfill requirements for superintendent certification; or,
- (q) Any other reason constituting "good cause" under Texas law or Decisions of the Commissioner of Education..

**7.4 Termination Procedure.** In the event that the Board terminates this Contract for "good cause," the Superintendent shall be afforded all the rights as set forth in the Board's policies, Chapter 21, Tex. Educ. Code, and any state or federal law or constitutional authority.

**7.5 Resignation of Superintendent.** The Superintendent may leave the employment of the District at the end of a school year without penalty by filing a written resignation with the Board. The resignation must be addressed to the Board and filed not later than the 45th day before the first day of instruction of the following year. The Superintendent may resign with the consent of the Board at any other time.

## VIII. MISCELLANEOUS

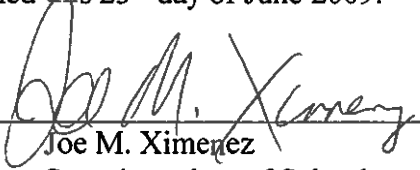
**8.1 Controlling Law.** This Contract shall be governed by the laws of the State of Texas and shall be performed in Zavala County, Texas, unless otherwise provided by law.

- 8.2 Complete Agreement.** This Contract embodies the entire agreement between the parties hereto and cannot be varied except by written agreement of the undersigned parties, except as expressly provided herein.
- 8.3 Conflicts.** In the event of any conflict between the terms, conditions, and provisions of this employment Contract and the provisions of the Board's policies, or any permissive state or federal law, then, unless otherwise prohibited by law, the specific terms of this Contract shall take precedence over the contrary provisions of the Board's policies or any such permissive law during the term of the Contract.
- 8.4 Savings Clause.** In the event any one or more of the provisions contained in this Contract shall, for any reason, be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provisions thereof, and this Contract shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained herein. All existing agreements and contracts, both verbal and written, between the parties hereto regarding the employment of the Superintendent have been superseded by this Contract, and this Contract constitutes the entire agreement between the parties unless amended pursuant to the terms of this Contract

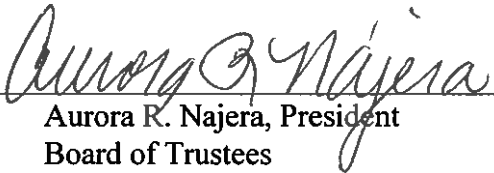
SIGNATURE PAGE TO FOLLOW

**SUPERINTENDENT**

Signed this 23<sup>rd</sup> day of June 2009.

  
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Joe M. Ximenez  
Superintendent of Schools

**LA PRYOR INDEPENDENT SCHOOL DISTRICT**

By:   
\_\_\_\_\_  
Aurora R. Najera, President  
Board of Trustees

**ATTEST:**

By:   
\_\_\_\_\_  
Dr. Alfonso Luevano, Secretary  
Board of Trustees

Signed this 23<sup>rd</sup> day of June, 2009.