

**MARION CENTRAL SCHOOL DISTRICT
EMPLOYMENT AGREEMENT**

**Acting Director of Finance and Operations
November 20, 2019-November 30, 2019**

**Director of Finance and Operations
December 1, 2019- June 30, 2022**

This Employment Agreement (the "Agreement") is made by and between Richard Walker for employment in the position of Director of Finance and Operations (the "Director"), and the Board of Education for the Marion Central School District (the "District").

1. NATURE OF AGREEMENT

- a. The District has decided to employ the Director to perform the duties of the Director of Finance and Operations as prescribed by the Laws of the State of New York, the Rules of the Board of Regents, the Regulations of the Commissioner of Education, and by the policies, regulations, bylaws and resolutions of the Board of Education (the "Board"). This agreement shall be effective upon the signing of both Parties, and is subject to the approval by vote in a public session at a meeting of the District's Board of Education.
- b. This Agreement sets forth the compensation and fringe benefits of the Director and is not a guarantee or promise of continued employment. The duration of the Director's employment shall be determined by the Education Law and the Rules of the Board of Regents.
- c. The District reserves the right to dismiss the Director during the course of the Director's employment, including but not limited to a dismissal during or at the end of the probationary period, in accordance with Sections 3012, 3019-a, 3020-a, and/or 3031 of the Education Law, or to grant tenure to the Director. The District also reserves the right to abolish, restructure or reorganize the position. The Director's work year shall be twelve months, from July 1 to June 30. The Director shall report directly to the District's Superintendent of Schools (the "Superintendent").

2. APPOINTMENT

The parties agree and confirm that the proper tenure area for the Employee's appointment by the Board of Education, pursuant to the recommendation of the Superintendent of Schools and the requirements of Education Law § 3014, is the tenure area of "Director of Finance and Operations" and that the Employee's initial appointment is subject to a four (4) year probationary period pursuant to the requirements of Education Law §3014.

3. CERTIFICATION

The Director possesses, and shall maintain during the Director's employment with the District as Director of Finance and Operations, a certificate from the New York State Education Department authorizing the Director to serve in such a position, which shall be a School District Business Leader certification. If the certificate or its authority is suspended, revoked or otherwise limited, the Director shall provide immediate notice to the Superintendent, orally and in writing, of such circumstance.

4. TERM OF AGREEMENT

The term of this Agreement shall be from November 20, 2019 through June 20, 2022, unless it is extended or reward by agreement of the parties, or unless it is terminated early as provided herein.

5. MANAGEMENT RIGHTS

- a. Any or all rights, powers, authority, and prerogatives the District had prior to entering into this Agreement are retained by the District, except as to those rights, powers, authority or prerogatives that are expressly and specifically limited by the provisions of this Agreement.
- b. The District previously held and continues to hold unfettered and exclusive authority to determine the following: the services it will provide; the assignment of staff; quality standards; supervision of staff; the size and composition of the staff; the establishment of new positions or changes in the content of existing positions; the establishment of job descriptions; whether to purchase or otherwise acquire services; the sale, use, lease, discontinuance or disposal of any part of its buildings, equipment, services; to determine the starting and ending times employees shall work and the shifts they shall work; to determine the methods, means and personnel by which the District's operations are to be conducted; to take all methods to carry out its mission; and to exercise complete control and discretion of the school district.
- c. The failure to enumerate such retained rights, powers, authority and prerogatives in this Agreement shall not be construed as a waiver of any such rights, powers, authority or prerogatives.

6. PROFESSIONAL DUTIES AND RESPONSIBILITIES

The following shall be the duties and responsibilities of the Employee

- a. The Employee shall diligently and conscientiously devote his full and exclusive time and attention, and best efforts, to the discharge of his duties as the District's Employee.
- b. The Employee, shall report to, and be under the direct supervisor of the Superintendent of Schools, who shall act as the Chief Executive Officer and Chief Administrative Officer of the District.
- c. The Employee shall carry out those duties and responsibilities assigned to the Employee by the Superintendent.
- d. The Employee shall perform his duties in accordance with the provisions of the New York State Education Law, the regulations of the Commissioner of Education, and the policies and directives of the Board of Education as duly adopted and promulgated by official action of the Board.
- e. The Employee is expected to attend all Board of Education meetings unless specifically excused by the Superintendent of Schools.

7. AMENDMENT, EXTENSION OR RENEWAL OF AGREEMENT

The terms of this Agreement may not be amended except with by mutual agreement in writing between the parties. If the Director continues to be employed by the District as Director of Finance and Operations after the term of this Agreement, all terms and conditions of this Agreement shall remain in effect until a successor Agreement is reached.

8. COMPENSATION

The total twelve (12) month base salary for the Director for the 2019-20 fiscal year shall be at an annual rate of \$107,000, prorated to reflect the date on which the Director commences serving in this position. For each subsequent twelve (12) month period of employment, the base salary for the Director shall be set by the Board. In no event shall the Director's base salary for any twelve-month period of employment be less than the amount of the base salary received during the preceding twelve-month period. The Director's salary shall be paid in twenty-six installments per year, or to match updated payroll schedules for the District's major bargaining units.

9. HEALTH AND DENTAL INSURANCE

- a. Health Insurance Premiums - The base medical plan shall be Excellus Signature HDHP. The District will fund the full monthly premium. Additionally, the District will contribute a fixed dollar value of \$1,125 for a single plan, or \$2,250 for any other plan tier, into an HSA account. Should plan deductible amounts increase in the future, the Director is entitled to request renegotiation of these fixed amounts. HSA contributions will be made on the first of the month following the initial date of hire in the first plan year (per IRS rules), and the first day of each subsequent deductible year (January 1). The Director may elect to apply the value of the full premium and HSA contribution towards any other plan offered by the District, and personally fund any residual amount due.
- b. Dental Insurance Premiums -The District will pay 80% of the monthly premium cost of a dental plan for a single, two-person, or family-type contract. At present, such plan is the Blue Shield Dental Blue Options 1 Modified dental plan. The District may, in its discretion, change to another dental plan.
- c. Retirement Group Health Premiums-
 1. Upon completion of the required years of service in the District, and immediately filing appropriate retirement papers with the New York State Teachers' Retirement System, the Director shall be entitled to continued coverage in District-sponsored medical and dental insurance programs at a calculated percentage of the contribution rate paid for the Base Plan during active service.
 2. The Director must have twenty-five (25) years of service with the District for continued coverage at the active service contribution rate of the base plan for active employees. The Base Medical Plan is currently Healthy Blue \$15 copay plan for those under 65 and the Medicare Supplement C Plan for age 65 or over. The Base Dental Plan is currently the Blue Shield Dental Blue Options 1 Modified. The District may, in its discretion, change the Base Medical Plan and/or the Base Dental Plan.

3. Once the Director becomes Medicare eligible, the District will contribute 50% of the cost of the premiums for a District-sponsored Medicare supplement plan. If, in the future, there is no Medicare supplement plan available for the District to offer to the Director, the District may substitute another plan that provides comparable benefits.
4. The Director may continue in the type of contract (single, two-person or family) in which he was enrolled at the time of retirement. If the Director is deceased, the Director's spouse may continue in the group plan for which the spouse is eligible upon the spouse's payment of the full premium.
- d. Medical Insurance Opt-Out Option - If the Director becomes covered under a medical insurance policy other than that of Marion Central School District, he may opt-out of the school district subsidized medical plan and receive a cash payment as a benefit in lieu of coverage under the District's plan. The cash opt-out payment is \$1,200 per year if the Director is eligible for individual coverage, or \$4,000 per year if the Director is eligible for two-person or family coverage. In order to receive a cash opt-out payment, the Director must provide the District with proof that the Director (and the Director's dependents for tax purposes, if any) has health insurance from another source (such as through a spouse's employer's group health plan). Such alternate coverage must, at all times, satisfy any applicable legal requirements.
- e. Survivor Benefit - In the event that the Director dies in service, the District will provide health insurance at the then-current contract's contribution rate to the surviving spouse and dependent children, if any, for up to six (6) calendar months after the death of the Director.

10. FLEXIBLE SPENDING

The District has instituted flexible spending accounts for insurance deductibles, health care costs, and dependent care costs by employee contribution only. The Director may participate in an FSA plan in accordance with the terms of the plan. The FSA has limits on employee pre-tax contributions and is subject to any applicable laws and regulations.

11. CONTRIBUTION TO TSA

In June of each year, the District will contribute for the Director a sum equal to three percent (3%) of the Director's annual salary for that fiscal year into a tax sheltered annuity account of the Director's choosing. The funds will be deposited into a 403(b) account as a Non-Elective Employer Contribution. (All contributions are subject to limitations set forth by the IRS.)

The account will be for the benefit of the Director who may, in turn, direct the proceeds into various investment sub-accounts. Complete details are listed in the product literature and Plan Documents. This program is intended to be a service and/or retirement benefit in lieu of cash payments for unused sick days or a retirement incentive.

12. ADMINISTRATIVE PROFESSIONAL DUES

For each work year, the District agrees to pay for the Director's membership in appropriate professional organizations of the Director's choice, subject to the Superintendent's approval, within the funds budgeted for this purpose.

13. PROFESSIONAL DEVELOPMENT/MILEAGE

- a. The District recognizes the importance of ongoing professional learning. The District will pay for all costs related to attendance at conferences/workshops or reimburse the Director when direct payment is not possible when such conference/workshops or reimbursements are approved by the Superintendent of Schools and the Board of Education, as the case may be.
- b. In lieu of reimbursement for vehicle expenses incurred while on school business, the District shall give the Director a travel stipend in the amount of one thousand five hundred dollars (\$1,500) per year, payable in line with the compensation schedule addressed in Paragraph 5 of this Agreement.

14. TUITION REIMBURSEMENT

The Director is eligible for tuition reimbursement at the SUNY rate for up to fifteen (15) credit hours completed each school year, subject to the Superintendent's approval of the courses.

15. VACATION DAYS

- a. During the 2019-20 fiscal year, the Director shall be entitled to twenty (20) vacation days. The Director is entitled to twenty-five (25) vacation days during each subsequent year of this Agreement.
- b. No vacation days are allowed to be rolled over, accrued, or cashed in for any monetary value.
- c. Notwithstanding Paragraph 12(b) above, upon separation from employment with the District for a reason other than termination by the District based on the performance or conduct of the Director, if the Director provides any advance notice required by this Agreement, the District shall pay the Director the value of the Director's accrued, unused vacation days. This amount of this payment shall be prorated based on the time remaining before the end of the then-current school year. (For example, if the effective date of separation from employment is June 30, the District shall pay the Director the full value of the unused vacation days. If the effective date of separation from employment is halfway through the then-current school year, the District shall pay the Director the value of half of the unused vacation days.)

16. SICK DAYS

The Director will be credited with a one-time allotment of forty (40) sick leave days on November 20, 2019. The Director will be credited with fifteen (15) days of paid sick leave during each subsequent school year as of the Director's first day reporting to work on or after July 1st of each school year. This sick leave may be accumulated up to a total of two hundred (200) days maximum. In addition to personal illness, up to five (5) sick days may be used when the staff member's presence is required to care for a sick or injured member of the immediate household or a parent or grandparent. For the care of a family member covered under the Family and Medical Leave Act (the "FMLA"), the Director may use paid sick leave up to the annual limit allowed by the FMLA provided that the Director has accumulated sufficient sick leave days to cover the request.

17. BEREAVEMENT LEAVE

For the purpose of death in the immediate family, the term "immediate family" shall be defined as a spouse, a child, a parent, a sibling, or grandparent of the Director or Director's spouse. Up to five (5) days of sick leave may be utilized for each such occurrence.

18. HOLIDAYS

The Director will receive the following thirteen (13) paid holidays: New Year's Day, Martin Luther King Day, Presidents' Day, Good Friday, Memorial Day, Fourth of July, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day and the following Friday, Christmas Eve, and Christmas Day.

If any of these holidays falls on a weekend, a weekday will be designated, by agreement of the Director and the Superintendent, to be observed as that holiday for that calendar year. If school is in session on Good Friday, then in lieu of having a holiday on that day, the Director will have a floating holiday selected by the Director (subject to the approval of the Superintendent).

19. GROUP TERM LIFE INSURANCE

The Director will be provided with a \$50,000 group term life insurance policy. The premium is fully paid by the school district. The carrier of such insurance will be determined by the District. Life Insurance premiums shall not be paid by the District after retirement, but if such coverage is available, the Director may elect to pay the premium at his own expense.

20. PERSONAL LEAVE

The Director may request up to three (3) paid personal leave days during each school year. This leave is provided for personal, non-recreational activity or business that cannot be completed during regular working hours. This paid leave may not be used on days immediately preceding or following a scheduled recess for students and/or teaching staff. Such leave shall be requested in writing to the Superintendent on the prescribed form at least two days in advance whenever practical. Personal leave, if unused, is added to unused sick leave at the end of each year.

21. CHILDBEARING AND/OR CHILD-REARING LEAVE

A leave of absence, not to exceed one academic year without pay, will be granted for childbearing and/or child-rearing purposes, and will be available only during pregnancy or following the birth of a child of the Director or the adoption of a child by the Director.

- a. A written request for unpaid childbearing and/or child-rearing leave will be submitted to the Superintendent as soon as it is reasonable.
- b. It is understood that a childbearing and/or child-rearing leave of absence may, with the approval of the Superintendent, be commenced earlier than was anticipated by the Director when unforeseen medical circumstances arise, or upon notification of adoption.
- c. The exit date for the Director when taking childbearing leave will be determined by the Director's physical ability to perform duties. Such date shall be determined upon the advice of a physician.

- d. The Director's physician shall certify the period of physical disability because of childbirth in writing. The Director shall be paid sick leave benefits only for that period of temporary disability certified by the Director's physician, provided that the Director has accumulated sufficient sick leave days to cover the request.
- e. All benefits that relate to sick leave under the terms of this Agreement will apply to the period of physical disability for childbirth. All benefits that accrue to the Director on leave of absence without pay under this Agreement will apply to unpaid childbearing and/or child-rearing leave.
- f. The Board of Education may, upon the Director's request and the Superintendent's recommendation, grant an extension or reduction in the duration of a child-rearing leave due to changed circumstances.
- g. If the Director is a probationary administrator at the time of commencing childbearing and/or child-rearing leave, the probationary term will continue upon the Director's returning to duty.

22. MILITARY LEAVE

The Director, on either probationary or permanent employment, who is called involuntarily to active military service, is entitled to return to a position in the school system, subject to any conditions under the applicable laws and regulations. Full credit for compulsory military service experience will be allowed for salary, retirement, and seniority purposes to the extent required by applicable law.

23. OTHER NON-PAID LEAVES OF ABSENCE

Leaves of absence for personal reasons other than academic leaves, sickness leaves, childbearing or child-rearing leaves, or military leaves, may be granted to the Director at the discretion of the Board of Education upon the recommendation of the Superintendent.

24. JURY DUTY LEAVE

In the event the Director is required to perform jury duty, he shall receive his full pay from the District and shall waive the pay for jury duty service.

25. INDEMNIFICATION

- a. The District shall defend, hold harmless, and protect the Director from financial loss arising out of any claim, demand, action, suit, or judgment under the circumstances covered by Sections 3023, 3028, and 3811 of the New York Education Law provided the Director was acting in the discharge of his duties and within the scope of his employment and/or under the direction of the District, when the alleged action(s) occurred.
- b. The District shall not be so obligated as set forth above unless the Director shall, within the number of days required by law, deliver the original, or an accurate copy thereof, of the summons, complaint, petition, process, notice, demand or pleading, to the District Clerk. At present, for the purpose of Sections 3023 and 3028 of the Education Law this is ten (10) days after the Director is served, and for the purpose of Section 3811 of the Education Law this is five (5) days after the Director is served.

26. EVALUATION

An annual written performance review will be furnished by the Superintendent to the Director.

27. TERMINATION

This agreement may be terminated for any of the reasons as follows:

- a. By written agreement between the District and the Director;
- b. By the resignation of the Director submitted in writing to the Board. Such resignation shall be delivered to the Superintendent, the President of the Board of Education, or the Clerk of the Board, giving at least forty-five (45) days' notice of the Director's resignation;
- c. By the death of the Director;
- d. By the discontinuation of the Director's probationary appointment pursuant to the requirements of Education Law §3014;
- e. If the Employee has been granted tenure, discharge for cause of the Director pursuant to the requirements of Education Law §3020-a, except for discharge due to Sickness or Disability resulting in incapacitation for which Education Law §3020-a shall not apply as identified below;
- f. Sickness or Disability Resulting in Incapacitation –
 1. The parties agree that this Agreement and the Director's employment may be terminated by the Board of Education upon a recommendation of the Superintendent if the Director is unable, by reason of sickness or other disability, to discharge the duties and responsibilities of the Director of Finance and Operations beyond the exhaustion of the Director's accumulated sick leave entitlement, FMLA entitlement, and beyond a period of any extended leave granted by the Board.
 2. In the event of the Director's incapacity to perform his duties by reason of sickness or other disability, and after the exhaustion of any applicable leave, the Superintendent of Schools will provide a written notice to the Director of his/her intent to recommend to the Board of Education the termination of this Agreement and the Director's termination from employment under this provision on at least fourteen (14) days' notice prior to the meeting in which the Board will act on the Superintendent's recommendation.
 3. Within the fourteen (14) day notice period of the Superintendent's intent to recommend the Director's termination for the Director's incapacitation due to sickness or disability, the Director may request an independent medical examination pursuant to requirements of New York Education Law §913 by an independent medical officer appointed by the District to make a determination as to the Director's fitness for duty. The independent medical officer's report and recommendations shall be forwarded to the District's Board of Education for the Board's final review and decision.

4. The Director agrees and understands and the Director hereby affirmatively waives any rights regarding his employment, tenure status, and/or his termination pursuant to the requirements of Education Law 3020-a in the event the District seeks to terminate the Director's employment due to sickness or disability resulting in incapacitation.
5. Upon the expiration of the fourteen (14) day notice period or upon the District's receipt of the independent medical examination report, the Board of Education may decide to terminate the Director's employment for sickness or disability resulting in incapacitation. The Board's decision in this respect shall be final, provided that the Board's decision may be challenged in a court of competent jurisdiction through an Article 78 proceeding in New York State Supreme Court.

28. SAVINGS CLAUSE

If any provisions of this Agreement or any application of this is found to be contrary to law, or would tend to impinge upon or reduce in any way the duties or responsibilities of the Board of Education as defined in Section 1709, 1711, 1803 or any other sections of the Education Law pertaining to the duties and responsibilities of the Board of Education, then such provision or application shall not be deemed valid or subsisting, except to the extent permitted by law, but all other provisions or applications will continue to remain in effect.

29. ZIPPER CLAUSE

The parties agree that all terms and conditions of employment of concern have been discussed during the negotiations leading to this Agreement and that negotiations will not be reopened at any time on any item whether contained herein or not before the date negotiations are reopened for a successor Agreement. This Agreement may be added to, deleted from, or modified only through the voluntary mutual consent of both parties in a written and signed amendment to this Agreement. Any past practice existing prior to this Agreement and not explicitly included in this Agreement shall be null and void.

30. WAIVER OF BREACH

Any waiver by the District of the Employee's due performance or compliance with any provisions of this Agreement shall not operate or be construed as a total or continuing waiver of due performance or compliance by Employee thereafter.

31. MODIFICATION

No waiver, change or modification of any of the terms of this Agreement shall be binding unless in writing and signed by both parties to this Agreement.

[Signatures Next Page]

IN WITNESS WHEREOF, District has caused this Employment Contract for the Director to be approved on its behalf by the Superintendent of Schools, and Director has approved this Employment Contract effective on the day and year signed above.


EMPLOYEE:


Richard Walker

11/4/2019
Date

SS:)
County of Wayne)

On the 4th day of November in the year 2019, before me, the undersigned, personally appeared Richard Walker, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity (ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public Signature
LISA M. LEVAN
Notary Public, State of New York
No. 01LE6059470
Qualified in Wayne County
Commission Expires May 29, 2023

MARION CENTRAL SCHOOL DISTRICT:


Donald Bavis, Superintendent of Schools

11/4/2019
Date

SS:)
County of Wayne)

On the 4th day of November in the year 2019, before me, the undersigned, personally appeared Donald Bavis in his capacity as Superintendent of Schools, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity (ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public Signature
LISA M. LEVAN
Notary Public, State of New York
No. 01LE6059470
Qualified in Wayne County
Commission Expires May 29, 2023

CERTIFICATION BY
MARION CENTRAL SCHOOL DISTRICT BOARD CLERK

I, Nadine Mitchell, Clerk of the Board of Education for the Marion Central School District do certify that an Agreement for the employment of Richard Walker as Director of Finance and Operations for the Marion Central School District was duly approved by a majority vote of the voting strength of the Board of Education at public meeting of the Board of Education on the 29th day of October, 2019.


SIGNATURE OF BOARD CLERK

11/4/19
Date