

EMPLOYMENT AGREEMENT
BETWEEN
SIERRA-PLUMAS JOINT UNIFIED SCHOOL DISTRICT,
SIERRA COUNTY BOARD OF EDUCATION,
AND
JAMES T. BERARDI

1. TITLE

This Employment Agreement (“Agreement”) is made and entered into on August 13, 2019, between the Sierra-Plumas Joint Unified School District, hereinafter “District,” the Sierra County Board of Education, hereinafter “County Board”, and James T. Berardi, hereinafter “District Superintendent” and “County Superintendent.”

2. TERM

The District hereby employs James T. Berardi as District Superintendent for a term of approximately three (3) years, commencing September 16, 2019, and ending June 30, 2022, subject to the terms and conditions hereinafter set forth.

3. SUPERINTENDENT’S DISTRICT DUTIES

District Superintendent shall serve as chief executive officer and secretary of the District Governing Board pursuant to Education Code Sections 35034 and 35035. The District Superintendent shall perform the duties of District Superintendent as prescribed by the laws of the State of California and Board Policy and shall carry out the directions, responsibilities, duties and policies of the District Governing Board listed in the job description known as the Sierra-Plumas Joint Unified School District Policy No. 207.1, Superintendent of Schools.

4. BASE SALARY

District Superintendent

The District shall pay District Superintendent an annual salary of One Hundred Twenty-Six Thousand, One Hundred and Thirty-Six dollars (\$126,136.00) for the term of this Agreement, excluding employer paid benefits, i.e. Worker’s Compensation, State Unemployment Insurance, OASDI and Medicare for the term of this Agreement. Said salary shall be payable in twelve (12) equal monthly payments payable on the last working day of each calendar month, with the first payment on September 30, 2019. When only a portion of any school year or month is served, the District Superintendent’s annual salary shall be prorated to reflect such service. The District Superintendent’s daily rate shall be computed by dividing the annual salary by 185.

The District Governing Board reserves the right to modify the annual salary of the District Superintendent with the mutual agreement of the District Superintendent. Any adjustment in salary made during the term of this Agreement shall be in the form of an amendment to this Agreement and shall not be viewed as extending the term of this Agreement unless it so specifically states.

County Superintendent

The County Board shall pay the County Superintendent an annual salary of Twenty-Three Thousand, Eight Hundred and Sixty-Four dollars (\$23,864.00) for the term of this Agreement,

excluding employer paid benefits, i.e. Worker's Compensation, State Unemployment Insurance, OASDI and Medicare for the term of this Agreement. Said salary shall be payable in twelve (12) equal monthly payments payable on the last working day of each calendar month, with the first payment on September 30, 2019. When only a portion of any year or month is served, the County Superintendent's annual salary shall be prorated to reflect such service. The County Superintendent's daily rate shall be computed by dividing the annual salary by 35.

This particular provision shall survive Termination of District Employment pursuant to Paragraph 20, so long as James T. Berardi continues their position as the elected County Superintendent.

5. CREDENTIAL

It is agreed that the District Superintendent shall furnish to District throughout the duration of this Agreement a valid and appropriate credential issued by the California Commission on Teacher Credentialing to act as an administrator in the District.

6. COUNTY SUPERINTENDENCY

The District Superintendent agrees to serve as County Superintendent for the duration of this Agreement.

7. DISTRICT BENEFITS

During the term of this Agreement, the District Superintendent shall be entitled to receive from the District, all health, dental, vision, life and other fringe District-paid portion benefits provided administrative employees on a composite rate structure including and not necessarily limited to, Worker's Compensation, State Unemployment Insurance, OASDI and Medicare. The District shall assume a percentage eighty-four (84) percent of the District-paid portion premium costs of the benefits for the District Superintendent's annual health and welfare benefit premiums and the Sierra County Office of Education shall assume sixteen (16) percent of said costs subject to the District Superintendent's contributions.

8. DISTRICT WORK YEAR

The District Superintendent shall work 185 days on District matters and 35 days on County matters for a total of District/County Superintendency of 220 days per annum to equal one (1.0) F.T.E. The District Governing Board and the District Superintendent prior to September 1 of each year shall mutually agree upon a calendar for the service days. As an exempt employee under the Fair Labor Standards Act, he shall be ineligible for either overtime pay or compensatory time off.

9. DISTRICT LEAVE BENEFITS

As a District employee:

- a) The District Superintendent shall be entitled to twelve (12) days of sick leave each District Agreement year, which may be accumulated from year to year.
- b) District Superintendent shall be entitled to the holidays defined in Education Code Section 37220 and granted by the District Board for all District employees and for any other holidays declared by the District Board for all employees; however the District Superintendent's actual workdays shall be 185.
- c) District Superintendent shall not be entitled to any days of District paid vacation.

Except in cases of illness or personal emergency, District Superintendent shall notify the District Board President one full day in advance of any absence from the District, which is to last more than two (2) consecutive working days. In cases of illness or personal emergency resulting in absence from the District for more than two consecutive working days, the District Superintendent shall inform the District Board President as soon as practicable. Except in cases of illness or emergency, absences from the District of more than four (4) consecutive working days shall be taken at a time agreeable to the Board President.

10. COUNTY WORK YEAR

County Superintendent shall work 35 days on County matters.

This particular provision shall survive Termination of District Employment pursuant to Paragraph 20, so long as James T. Berardi continues in their position as the elected County Superintendent.

11. COUNTY LEAVE BENEFITS

The County Superintendent shall not be entitled to sick leave, holidays, paid vacation or health and welfare benefits.

This particular provision shall survive Termination of District Employment pursuant to Paragraph 20, so long as James T. Berardi continues in their position as the elected County Superintendent.

12. EXPENSE REIMBURSEMENT

District shall reimburse the District Superintendent for all documented, reasonable, actual and necessary expenses incurred by him within the scope of their employment, in accordance with District Board Policy and administrative regulations as approved by the District Board within the budget for any expenses incurred by him within the scope of their employment and while representing the District.

The District Superintendent shall provide a suitable automobile for his transportation in the performance of his duties on school business within Sierra County. The District Superintendent shall receive Four Hundred and Fifty dollars (\$450.00) per month allowance to use for the purpose of maintaining the automobile. Travel outside of Sierra County shall be reimbursed per District policy and state law.

If the District Superintendent relocates his primary residence to Sierra County, he shall be reimbursed for all necessary and reasonably moving expenses not to exceed Five Thousand dollars (\$5,000.00). The District Superintendent shall provide receipts for all expenses claimed prior to reimbursement and must provide evidence of relocation to a residence within Sierra County.

13. MEMBERSHIP AND DUES

The District shall pay membership fees and dues for the District Superintendent for the Association of California School Administrators (ACSA).

The District shall pay a membership fee to Rotary Club International (Loyalton Chapter) not to exceed \$120.00 annually and Rotary Club meeting meal expense.

14. COMMUNICATION DEVICES

The District shall provide a cellular/mobile telephone device and laptop computer for District Superintendent for their usage while in the performance of their duties for the duration of this Agreement. Said cellular/mobile telephone device and laptop computer shall be and remain exclusive property of the District throughout this Agreement.

15. PROFESSIONAL ACTIVITIES

District Superintendent shall endeavor to maintain and improve their professional competence. District shall pay for all reasonable and necessary expenses for such activities if the District Board has approved the activities in advance and funding for them is available in the annual budget.

16. OUTSIDE PROFESSIONAL ACTIVITIES

District Superintendent shall devote their time, attention and energy to the business of the District except as he may reasonably be engaged in carrying out their duties as County Superintendent. However, with the prior approval of the District Governing Board, District Superintendent may serve as a consultant, lecture, engage in writing activities and speaking engagements, and engage in other activities, which are short-term duration. If District Superintendent receives pay or an honorarium for such activities, District Superintendent shall utilize non-work days for the purpose of engaging in such activities. District Superintendent may only utilize workdays for such activities with prior approval of the District Board and in no event will the Board be responsible for any expenses attendant to the performance of outside activities.

17. GOALS AND OBJECTIVES

On or before August 1st of each year the District Governing Board and the Superintendent shall formally discuss the Superintendent-Board relationship, set the District goals and objectives for the upcoming year and mutually determine the specific Superintendent goals and objectives that support those District goals and objectives. The Board shall annually review the performance of the Superintendent as it relates to these goals and objectives.

18. EVALUATION

The District Governing Board shall annually evaluate and assess in writing the performance goals and objectives of the District Superintendent. The Board shall evaluate the District Superintendent in performing their duties for the District and shall assess the working relationships between the District Superintendent and the District Governing Board. The District Superintendent shall send a written reminder to the District Board of the evaluation process by March 1 of each year. The Board shall meet with the District Superintendent in closed session by May 1 of each year to discuss the evaluation. If the above notification has occurred and the evaluation was not completed, District Superintendent's performance shall be deemed to be satisfactory. The evaluation shall be based on the position description and mutually agreed upon duties and specified goals and objectives in accordance with the procedures authorized in District policies. The Board shall deliver the evaluation to the District Superintendent and place a copy in the Superintendent's personnel file. The District Superintendent's written comments, if any, shall be filed with the evaluation in a sealed envelope in the District Superintendent's personnel file and marked "Confidential: To Be Opened by Authorized Personnel Only." The Governing Board shall, if

requested by the District Superintendent, within a reasonable time after the District Superintendent has heard or received the evaluation, meet to discuss the contents of the evaluation.

The Board shall notify the District Superintendent in writing whether he has performed, in the Board's judgment, satisfactorily or unsatisfactorily. If the Board concludes by majority, that the District Superintendent's performance is below satisfaction, within 30 days of the date of evaluation, the Board will identify in writing specific areas where improvement is required, provide written recommendations for improvement and notify the Superintendent that another evaluation will be conducted within six (6) months.

19. CONDITIONS OF REEMPLOYMENT

The Superintendent's Agreement shall be extended only by District Board action subsequent to evaluation of the Superintendent's performance and in accordance with Government Code Section 3511.2.

If the majority of the Board agrees that the Superintendent's over-all performance is standard or above, or in the absence of an evaluation by June 30, 2020, the Superintendent's Agreement will be extended one year, beginning July 1, 2020, under the same terms and conditions, and with the same schedule of compensation.

The Board may not hold a special meeting regarding the salary, salary schedule, or other form of compensation for any local agency executive. Rather, these issues must be addressed at a regularly scheduled Board meeting with 72 hours advance public notice.

Any Agreement executed or renewed between local agency and a local agency executive shall not provide for the following:

Government Code 3511.2

- (a) An automatic renewal of an Agreement that provides for an automatic increase in the level of compensation that exceeds a cost-of-living adjustment;
- (b) A maximum cash settlement that exceeds the amounts determined pursuant to Article 3.5 of Title 5.

20. TERMINATION OF AGREEMENT PRIOR TO FULFILLMENT

The District Governing Board action to terminate this Agreement prior to fulfillment, with or without cause, other than by mutual consent of the parties hereto shall require a super majority (80%) vote of the Governing Board.

- a. Mutual Agreement. This Agreement between the District Board and District Superintendent may be changed or terminated by mutual consent, provided, however, that the party seeking termination shall provide no less than sixty (60) days written notice to the other party. Additional amendments may be added to the Agreement by mutual consent of both parties at any time during the period of this Agreement.
- b. Disability or Incapacity. Should the District Superintendent be unable to serve in their District position due to a physical and/or mental condition(s), upon expiration of District Superintendent's sick leave entitlement as provided by statute and

District policy plus an additional period of thirty (30) calendar days, this Agreement shall be deemed terminated. Such determination will be made upon receipt of a written evaluation by a licensed physician mutually designated and paid for by the District indicating the inability of the District Superintendent to further serve in their position of employment.

If District Superintendent is absent from their District duties for a period of thirty (30) calendar days or more, it is understood and agreed that the District Governing Board may appoint an Interim District Superintendent for the remainder of the period of District Superintendent's absence plus one week. The Interim District Superintendent shall perform all of the duties of the District's Superintendent and have all of the responsibilities of the position.

- c. Death of District Superintendent. This Agreement is automatically terminated upon the death of the County Superintendent.
- d. Discharge for Cause. Employment of District Superintendent pursuant to this Agreement may be terminated for cause. District Superintendent shall be given written notice of any matter allegedly constituting grounds for District termination for cause. Grounds for District termination for cause include, but are not limited to: (1) failure to substantially perform duties set forth in this Agreement; (2) the occurrence of any event which would justify revocation of a credential as set forth in Education Code Section 44420 *et seq.*; and (3) the occurrence of any event which would justify dismissal of a tenured certificated employee as set forth in Education Code Section 44932 *et. seq.* Prior to being terminated for cause from the District, District Superintendent shall be afforded the protection of procedural due process, including: the right to written notice of the charges before the full District Governing Board; the right to representation by counsel at their expense; the right to present witnesses and evidence on their behalf and to cross-examine witnesses presented against him; and the right to a decision based on the matters at the hearing and stating the grounds for any action. The hearing before the District Governing Board shall be the District Superintendent's exclusive right to any hearing regarding District employment otherwise required by law.

In the event District Superintendent's District employment is terminated for cause, no further payment shall be made to District Superintendent under this Agreement, which shall be deemed terminated.

- e. Unilateral Termination. The District Governing Board may, at its option, unilaterally terminate employment as District Superintendent without cause in accordance with law and applicable Agreement provisions. If such a unilateral termination occurs, the District Superintendent shall be paid an amount equal to their monthly District salary multiplied by the number of months left on the unexpired term of the Agreement. If the unexpired term of the Agreement is more than 12 months, the maximum cash settlement shall be no greater than the Superintendent's monthly salary multiplied by 12. The cash settlement shall not include any noncash items which may be continued for the unexpired term of the Agreement up to 12 calendar months or until the Superintendent finds other employment, whichever occurs first. (Government Code 53260, 53261) (AR4317.5 - Termination Agreements)

If the District Governing Board, including an administrator appointed by the Superintendent, terminates its contract of employment with the District Superintendent, the District Governing Board shall not provide a cash or noncash settlement to the

District Superintendent in any amount if the District Governing Board believes, and subsequently confirms, pursuant to an independent audit, that the District Superintendent has engaged in fraud, misappropriation of funds, or other illegal fiscal practices. (Government Code 53260)

In addition, if the Superintendent is convicted of a crime involving an abuse of his/her office or position, he/she shall reimburse the district for payments he/she receives as paid leave salary pending investigation or as cash settlement upon his/her termination, and for any funds expended by the district in his/her defense against a crime involving his/her office or position. (Government Code 53243-53243.4, 53260)

- f. Non-renewal. The District Governing Board may elect not to renew this Agreement for any reason and shall provide District Superintendent with written notice of this fact no later than sixty (60) days prior to the expiration of the Agreement.

21. GENERAL PROVISION

- a) Governing Law. This Agreement, and the rights and obligations of the parties, shall be governed by and construed in accordance with the laws of the State of California.
- b) Entire Agreement. This Agreement contains the entire agreement and understanding between the parties. It supersedes and replaces any prior agreement between the parties. There are no oral understandings, terms or conditions, and neither party has relied upon any representation, express or implied, not contained in this Agreement.
- c) Amendment. This Agreement may be amended at any time during the term of the Agreement. However, such amendment shall be in writing and is only effective with the mutual consent of the District Superintendent and the District Governing Board.
- d) Severability. If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of the Agreement shall continue in full force and effect.
- e) Attorney's Fees. Should legal action be brought in regard to this Agreement, the prevailing party shall be entitled to recovery of attorney's fees.

22. RETIREMENT SYSTEM

It is understood by the Parties to this Agreement that the effect of any improvement in compensation as well as the initiation date of such compensation as provided herein is reviewable by the California State Teachers Retirement System "STRS" for purposes of determining any District Superintendent's retirement benefits. It is further understood that such determination is not a matter of determination by the Parties but is a matter solely within the discretion of STRS based on STRS statutory and regulatory standards of which the Parties are aware and with which the Parties must fully comply.

///

///

///

(Signatures on following page)

Dated: _____, 2019 _____
Patty Hall, President, Sierra County
Board of Education

Dated: _____, 2019 _____
Mike Moore, President, Governing Board
Sierra-Plumas Joint Unified School District

Dated: _____, 2019 _____
James T. Berardi, Superintendent