

## **SEPARATION AGREEMENT AND RELEASE**

THIS SEPARATION AGREEMENT AND RELEASE ("Agreement") is made this 8<sup>th</sup> day of July, 2021, between the Kearney R-I School District ("District") and Dr. Matthew Miller ("Superintendent") (collectively, the "Parties").

WHEREAS, Superintendent is and has been employed as superintendent in the District under a superintendent contract;

WHEREAS, Superintendent is willing to resign his employment, relinquish his contractual rights and be released from his contractual obligations as of July 1, 2021; and

WHEREAS, it is the intention of the parties to end the employment relationship between Superintendent and District on July 1, 2021("Effective Date");

NOW THEREFORE in consideration of the mutual covenants, promises, and consideration contained herein, the parties agree as follows:

1. Superintendent's irrevocable letter of resignation, effective as of July 1, 2021, is attached hereto and is incorporated into this Agreement as Exhibit A.

2. Superintendent's and District's execution of this Agreement is not an inference, admission, or concession by either of them of any liability or of wrongdoing.

3. Within twenty-one (21) days after the Effective Date, the Superintendent will receive a lump sum amount of One Hundred Eighty-Eight Thousand, Six Hundred Forty Dollars and Zero Cents (\$188,640.00) from the District, less all lawful and authorized deductions.

a. The District will pay health insurance premiums for Superintendent to provide health insurance coverage for Superintendent through July 1, 2022, excluding the employee-paid portion of the premium which will be deducted from his payment as described above. If, prior to the end of the 2021-22 contract year, Superintendent begins employment with an employer that offers health insurance coverage, he will immediately notify the District in writing of his benefit effective date with the new health insurance carrier and the District will have no further obligation to pay for health insurance premiums or provide health insurance coverage to Superintendent upon such effective date. In such a case, the District shall be obligated to refund to Superintendent the remaining amount of any employee-paid portion of health insurance that would have been applied to health insurance premiums following the effective date through the end of the 2021-2022 contract year. Upon termination of benefits, Superintendent becomes solely responsible for health insurance coverage.

b. Notwithstanding anything to the contrary in this Agreement, the Parties acknowledge and agree that nothing in this Agreement shall reduce, eliminate, release or forfeit Superintendent's rights to receive payment for any personal

Benefits (e.g. unused vacation) earned during the 2020-2021 contract year (July 1, 2020 through June 30, 2021) but for which Superintendent has not yet been paid as of the Effective Date.

4. The Parties agree that the payments set forth in Paragraph 3 shall not constitute "salary" or "compensation" for purposes of any taxes and/or contributions to the Public School Retirement System (PSRS) for the 2021-2022 contract year (July 1, 2021 through June 30, 2022).

5. No later than ten (10) business days after the execution of this Agreement, Superintendent or his Professional Representative must return all District property in his possession, including but not limited to keys and materials, to the Superintendent or designee. Similarly, if Superintendent has stored any of his personal property at the District, either Superintendent or his Professional Representative must contact the Superintendent or designee to make arrangements for the return of such property.

6. In consideration of the provisions set forth in Paragraph 3 of this Separation Agreement, Superintendent hereby forever waives, releases, remises, and discharges the Board of Education, the District, and its affiliates and subsidiaries, together with their respective directors, officers, agents, and employees, past, present and/or future, attorneys, insurers, and self-insurers, from any and all claims, actions, causes of action, demands, claims for wages and benefits, debts, dues, accounts, covenants, costs, expenses, agreements, damages or losses, administrative procedures or other procedures of any kind whatsoever, known or unknown, in law or in equity, he has or may have including, but not limited to, any alleged rights or claims capable of being asserted by Superintendent from the beginning of time until the mutual execution of this Separation Agreement. This general release shall not be construed to waive any right that is not subject to waiver by private agreement, including, without limitation, any claims that are not subject to waiver by private agreement arising under state unemployment insurance or workers compensation laws. Nothing in this Separation Agreement shall be construed to prohibit Superintendent from filing a future charge with or participating in any investigation or proceeding by the EEOC or comparable state or local agency. Superintendent agrees, however, to waive his right to recover monetary damages in any charge, complaint, or lawsuit filed by Superintendent or anyone on his behalf against the District, and its affiliates and subsidiaries, together with their respective directors, officers, agents, and employees, past, present and/or future, attorneys, insurers, and self-insurers.

7. Subject to Paragraph 3, without limitation of the foregoing, Superintendent hereby releases, remises, and forever discharges the District, together with its respective Board of Education and its past, present, and future members, directors, officers, agents, employees, attorneys, representatives, insurers and self-insurers, from any and all past or present claims, actions, causes of action, demands, debts, dues, damages or losses, administrative procedures or other procedures of any kind whatsoever, in law or in equity, known or unknown, Superintendent may have against them, including, but not limited to: claims arising under the Americans with Disabilities Act, as amended; Family Medical Leave Act; 42 U.S.C. § 1981; Title VII of the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1991 as amended; Age Discrimination in Employment Act, as amended, including as amended by the Older Workers Benefit Protection Act; 42 U.S.C. § 1981a; 42 U.S.C. § 1983; 42 U.S.C. § 1985; the Rehabilitation Act of 1973, 29

U.S.C. § 791 et seq.; the Missouri Human Rights Act, Mo. Rev. Stat., Ch. 213; Missouri Administrative Procedures Act, Mo. Rev. Stat. § 536.010 et seq.; the Missouri Superintendent Tenure Act, Mo. Rev. Stat. §§ 168.102-168.130; Article I § 10 of the Missouri Constitution; and Section 168.101, Mo. Rev. Stat.; Article I, § 8 of the Missouri Constitution any claim for wrongful discharge, breach of contract, invasion of privacy, libel, slander, defamation, loss of consortium or negligent or intentional interference with the business expectancy or agreement; any claim for health benefits, vacation pay, sick pay, or for any other wages or pay; any claim under any state wage law or statute; any tort action; or any other alleged discrimination, wrongful act, or any other violation of federal, state, or local statutory or common law, including but not limited to the claims capable of being asserted by Superintendent from the beginning of time until the mutual execution of this Separation Agreement.

8. In consideration of the provisions set forth in Paragraphs 6 and 7 of this Agreement, District hereby forever waives, releases, remises, and discharges Superintendent from any and all claims, actions, causes of action, demands, or claims of any kind whatsoever, known or unknown, in law or in equity, the District has or may have including, but not limited to, any alleged rights or claims capable of being asserted by the District from the beginning of time until the mutual execution of this Separation Agreement.

9. Superintendent agrees, in consideration of the provisions set forth in this Separation Agreement, to refrain from making any disparaging remarks or statements, verbal or otherwise and to refrain from any retaliation, in any forum about the District, the Board, Board members, employees, agents or volunteers of the District. District agrees, in consideration of the provisions set forth in this Separation Agreement, to refrain from making any disparaging remarks or statements, verbal or otherwise in any forum about the Superintendent. In the event that this anti-disparagement clause is breached by either Party, the other Party, shall be entitled to injunctive and other relief, in addition to any other remedy which it may be entitled, to prevent such breach or threatened breach and to secure the enforcement of this Agreement. For purposes of this Section, "disparage" shall mean to make a statement, whether written or oral, relating to the subject matter of this Agreement that is false and/or injurious and/or that discredits or detracts from the reputation or character or business of the District, the Board, Board members, employees, agents or volunteers of the District or Superintendent. For the purposes of this section, "The District" shall mean Assistant Superintendent, Jeff Morrison, and Board members sitting at the time of the execution of this Agreement.

10. In consideration of the provisions set forth in Paragraph 3 of this Agreement, which Superintendent agrees is valuable consideration to which he would not otherwise be entitled, Superintendent hereby agrees to reasonably cooperate in the context of any administrative action or legal action, existing now or at any time in the future, in which the District, the Superintendent, the Board, or any Board member, employee, agent or volunteer of the District is named. In the event the District requires such cooperation, Superintendent shall be paid at the per-diem rate of 1/250 of the annual salary earned by Superintendent during the 2020-2021 contract year for each full or partial day expended by Superintendent, together with any reasonable expenses incurred by Superintendent in conjunction with this Paragraph 10.

11. Superintendent agrees and promises that he will not seek employment with the District in any capacity in the future and that he will not seek to act as a volunteer with the District in the future, and that in the event that he should in the future attempt to seek or make application for employment with or provide services as an independent contractor or volunteer to the District, his application and employment and/or volunteer services legitimately and lawfully may be denied. If Superintendent applies for employment or to act as a volunteer with the District at any time in the future, the District will not be liable to Superintendent for any claim or cause of action based on the District's refusal or failure to employ Superintendent or to permit him to act as a volunteer. Superintendent hereby forever waives, releases and discharges the District, the Board of Education and its current, former and future members, employees, affiliates, successors, assigns, officers, agents, insurers, servants, representatives and all other entities affiliated with or related to it from any and all liability, actions, claims, demands or lawsuits which Superintendent may have or assert as a result of or based on the District's refusal or failure to employ him at any time in the future or to permit him to act as a volunteer at any time in the future. Superintendent covenants not to initiate legal action or cause legal action to be initiated against the District for any future refusal or failure by the District to employ him or to permit him to act as a volunteer.

12. Superintendent agrees not to apply for unemployment benefits with the Missouri Division of Employment Security arising from his separation from the District. If Superintendent does apply for such benefits, he agrees to return any benefits received under this Agreement and to stipulate that he left work voluntarily, without good cause attributable to such work or to the District.

13. If Superintendent makes a claim for Worker's Compensation benefits, he hereby stipulates that he sustained no injuries arising out of his employment with the District, he sustained no injuries in the course of his employment with the District, he had no accidents during his employment with the District, nor does he have any occupational diseases arising out of or sustained in the course of his employment with the District.

14. If, following the Effective Date, the District receives any inquiry by a prospective employer of Superintendent and/or requests any verification of employment, District agrees that its response thereto shall be limited to verification of the Superintendent's employment dates and Superintendent's annual salary and benefits earned during the 2020-2021 contract year.

15. Superintendent has twenty-one (21) days to fully consider this Agreement. Prior to the execution of this Agreement, it was recommended that Superintendent consult with an attorney regarding the terms of this Agreement. Superintendent may revoke this Agreement for a period of seven (7) days after its execution by the parties. In the event Superintendent, under this paragraph, revokes this Agreement, he will return all payments made to him pursuant to this Agreement and this Agreement shall be immediately null and void in its entirety.

16. Superintendent acknowledges that he has had the opportunity to review this Agreement in detail and that its language and intended effect have been explained. Superintendent acknowledges that he voluntarily has entered into this Agreement of his own free will based only upon the terms and conditions included herein and has had the opportunity to consult with an attorney of his choice concerning the meaning and effect of this Agreement. Superintendent

acknowledges and agrees that no promise, agreement or representation not expressed in this Agreement has been made to or relied upon by him.

17. This Agreement constitutes the entire Agreement between the District and Superintendent concerning the subject matter and supersedes all prior understandings, whether oral or written between the parties concerning the subject matter. Any amendment or modifications to this Agreement must be in writing and signed by the parties.

18. This Agreement shall be construed and interpreted in accordance with Missouri Law.

19. The parties understand that this Agreement is a public document pursuant to the Missouri Open Meetings Act, Chapter 610 of the Missouri Revised Statutes.

20. If any provision of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with any Missouri law or binding federal law, the validity, legality and enforceability of the remaining provisions shall not be affected and shall remain in full force and effect. The terms of this Agreement have been negotiated by the Parties, and the Parties agree that in litigation involving this Agreement, if any, the fact of the draftsmanship shall not be construed against any Party.

21. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors, and assigns.

22. The parties agree that this Agreement may be executed in counterparts and that a copy of this agreement is effective as the original.

IN WITNESS of this Agreement, the parties have signed this document on the date and year first written above.

DATE: 7/14/21

  
PRESIDENT, BOARD OF EDUCATION  
Kearney R-I School District

DATE: 7/14/21

  
SECRETARY, BOARD OF EDUCATION  
Kearney R-I School District

DATE: 7/1/21

  
Matthew Miller, SUPERINTENDENT

**EXHIBIT A**

July 8, 2021

Board of Education  
Kearney R-I School District  
150 W State Route 92  
Kearney, Missouri 64060

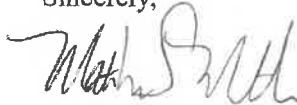
Re: Resignation

Dear President and Board Members:

I am resigning from the Kearney R-I School District, and I hereby submit my resignation from all positions I hold with the District effective July 1, 2021.

Thank you.

Sincerely,

A handwritten signature in dark ink, appearing to read "Matthew Miller", written in a cursive style.

Matthew Miller