

## Negotiating Your First Contract

Negotiating your first contract as a superintendent can be one of the most uncomfortable challenges you face in securing a new position. After working hard to build confidence and form a relationship with the new board it can be difficult to shift to a position of advocating and negotiating for you and your families' financial and security needs. For most first time superintendents this is also the first occasion to negotiate as an individual rather than as part of an employee group.

Too often first time superintendents succumb to the temptation of sacrificing their own financial interests in favor of securing a position. They believe that even though they may not be paid what others in similar positions are receiving, they can recover later. Unfortunately, this choice may lead to multiple long-term problems.

First, failure to include key provisions and protections in a first contract can make these elements difficult, if not impossible, to obtain later. Second, once an initial contract is set, subsequent compensation increases typically are communicated as percentage increases on the original base. A low base generates less compensation per percent of increase and large percentage increases can be difficult to sell, especially during difficult financial times. Unfortunately, school districts seem to be perennially facing tough financial times.

Third, should trouble in your relationship with the board surface before you have been able to adjust your contract, you must live with what is written, not what you wish you had written. Fourth, even changes in contract language that have no financial implications are likely to receive more scrutiny and discussion after the first contract is established.

So how can you position yourself and the school board to protect your interests while helping the school board to understand the need and be able to defend its actions to an often questioning public? One of the best ways is to establish mutual goals before beginning to negotiate the contract. This approach allows you and the board to work together to achieve the goals through the development of an agreement. As a result you can help the board to be creative while protecting the public interest and supporting a fair and responsible contract for you. The approach does not have to be complicated. Simply start with a set of goals you and the board likely share. Typically, at least four general categories of shared goals emerge in the discussion: stability, competitiveness, professional growth and performance.

**Stability goals** focus on ways to ensure that you, as the superintendent, will have a long tenure in the position, something you and the board are likely to desire. You can address stability through length of the contract and other benefits that encourage longevity. Elements such as increases in insurance provisions, growth in a severance package and retirement funding that grows over time are good examples of ways to address stability goals.

**Competitive goals** focus on the level of compensation and range of benefits that are typical within the "market" where the district competes for leadership. You might select athletic conferences, CESA school districts or similarly sized and situated school districts within the region as a basis for defining the market. Finding an appropriate compensation placement within

this group of school districts ensures that you are compensated competitively while providing the school board with reasonable cover from questioning citizens.

**Professional growth** goals focus on areas where you and the school board believe that increased knowledge and skills will be necessary for or beneficial to your success during the life of the contract. This portion of the discussion can also be helpful to you in the development of your professional growth plan that is aligned with the needs and priorities of the school district. These provisions might include reimbursement for graduate credits, attendance at national and regional professional conferences and other learning opportunities. For the school board, these provisions offer the opportunity to provide guidance to you on your ongoing learning and skill growth. However, be certain to identify and include the financial resources that will be made available to support your ongoing education and specific training.

**Performance goals** include the processes and timelines to be followed in conducting your evaluation relative to your job description and school district challenges and initiatives. You and the board also might choose to include compensation incentives or bonus opportunities related to your accomplishments and/or the performance of the organization.

Your work with the school board to establish these goals prior to negotiating the contract can offer helpful guidance throughout the process. Meanwhile you will be better positioned to avoid the traditional "proposal/counterproposal" approach that can be harmful to the new relationship you and members of the school board are nurturing.

Ultimately, you want the contract to reflect the best of everyone's thinking rather than a compromise that both sides find minimally acceptable. And, you want board members to be able to explain and defend with confidence the nature and role of the school board's contract with you.

#### **118.24 School district administrator.**

- (1) A school board may employ a school district administrator, a business manager and school principals and assistants to such persons. The term of each employment contract may not exceed 2 years. A contract for a term of 2 years may provide for one or more extensions of one year each.
- (2)
  - (a) Under the direction of the employing school board, the school district administrator shall have general supervision and management of the professional work of the schools and the promotion of pupils.
  - (b) The school district administrator shall not be a member of the school board and shall not engage in any pursuit which interferes with the proper discharge of the duties.
  - (c) The school district administrator shall make written recommendations to the school board on teachers, courses of study, discipline and such other matters as the administrator thinks advisable and shall perform such other duties as the school board requires.
  - (d) The school district administrator may act as principal or teacher in any school under the administrator's supervision.
  - (f) The school district administrator shall ensure that the administrative and pupil service staff in the district cooperate with the county department under s. 51.42 in the dissemination of information regarding the availability of alcohol and drug abuse services and to jointly establish procedures for the referral to appropriate agencies of students experiencing problems resulting from the use of alcohol or other drugs.
- (3) The principal shall perform such administrative and instructional leadership responsibilities as are assigned by the district administrator under the rules and regulations of the school board.
- (4) A business administrator shall perform such fiscal and business management and other administrative duties as are assigned by the district administrator subject to the rules, regulations and approval of the school board.
- (5) School principals and business administrators, and assistants thereto, may, upon authorization from the school board or district administrator, attend conventions for the purpose of promoting and stimulating their professional growth and for improving the schools of the district and the state. For such approved attendance they may be reimbursed for actual and necessary expenses incurred for travel, board, lodging and attendance at such conventions upon proper filing of proof of attendance and of such necessary expenditures.
- (6) The employment contract of any person described under sub. (1) shall be in writing and filed with the school district clerk. At least 4 months prior to the expiration of the employment contract, the employing school board shall give notice in writing of either renewal of the contract or of refusal to renew such person's contract. If no such notice is given, the contract then in force shall continue in force for 2 years. Any such person who receives notice of renewal or who does not receive notice of renewal or refusal to renew the person's contract at least 4 months before the contract expiration shall accept or reject the contract in writing on or before a date 3 months prior to the contract expiration. No such person may be employed or dismissed except by a majority vote of the full membership of the school board. Nothing in this section prevents the modification or termination of an employment contract by mutual agreement of the parties. No school board may enter into a contract of employment with any such person for a period of time as to which such person is then under a contract of employment with another school board.
- (7) Prior to giving notice of refusal to renew the contract of any person described under sub. (1), the employing board shall give such person preliminary notice in writing by registered mail at least 5 months prior to the expiration of such contract that the board is considering

nonrenewal of the contract, and that if such person files a written request with the board within 7 days after receiving such notice, the person has the right to a hearing before the board prior to being given written notice of refusal to renew the contract. The written request for a hearing shall include a statement requesting either a private hearing or a public hearing before the board. Section 118.22 does not apply to such a proceeding. If a hearing concerning nonrenewal of the contract is requested, the reasons upon which the board is considering nonrenewal may also be requested and the board shall furnish such reasons before the hearing in writing.

(8) Personnel administrators and supervisors, curriculum administrators and assistants to such administrative personnel, when employed by the school board of any school district to perform administrative duties only, may be employed for a term that does not exceed 2 years. A contract for a term of 2 years may provide for one or more extensions of one year each. Subsections (5) to (7) are applicable to such persons when they are employed to perform administrative duties only.

(9) Nothing in this section shall be construed:

- (a) To prohibit the school board of any district from hiring part-time administrative personnel; or
- (b) To prohibit the employment relations commission from making a determination that persons hired as part-time administrative personnel shall be included in the collective bargaining unit of persons hired as teachers and shall be covered by the terms of a collective bargaining agreement which exists pursuant to s. 111.70.

(10) No principal or assistant principal may be granted tenure or permanent employment.

**History:** 1975 c. 379, 421; 1979 c. 331; 1983 a. 317; 1985 a. 176; 1993 a. 16; 1995 a. 27, 50; 2009 a. 215.

The school board and district under sub. (3) can require a principal to perform administrative responsibilities as long as their performance does not modify the terms of an employment contract. *Kabes v. School District of River Falls*, 2004 WI App 55, 270 Wis. 2d 502, 677 N.W.2d 667, 03-0522.

The statutes do not support the existence of a school principal's property interest in performing specific duties. *Ulichny v. Merton Community School District*, 93 F. Supp. 2d 1011 (2000). Affirmed. 249 F.3d 686 (2001).

Due process does not require that an outside decisionmaker conduct the hearing provided for under sub. (7). *Beischel v. Stone Bank School District*, 362 F.3d 430 (2004).

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**SAMPLE EMPLOYMENT CONTRACT  
FOR ADMINISTRATIVE PERSONNEL**

IT IS HEREBY AGREED by and between the school board of the *(name of school district)* (hereinafter designated as the "board") and *(name of employee)* (hereinafter designated as the "administrator"), that the board does hereby employ the administrator in the position of \_\_\_\_\_ (hereinafter designated as the "administrator's position").

This contract is for an automatic and continuous term, beginning on July 1, 20 \_\_, and ending 2 years from the date the school board votes to stop the contract from continuing on such automatic and continuous basis. For purposes of salary and benefits increases, each July 1<sup>st</sup> is designated as the anniversary date of the contract. <sup>1</sup>

**RESPONSIBILITIES**

The administrator agrees to perform at a professional level of competence the services, duties, and obligations required by the laws of the State of Wisconsin and the rules, regulations, and policies of the board which are now existing or which may be hereinafter enacted by the board. The board agrees to furnish the administrator with a written copy of all such rules, regulations, and policies now in effect or becoming effective during the term of this contract.

In case of direct conflict between any rules, regulations, or policies of the board and any specific provision of this contract, the contract shall control.

The administrator and board agree that the administrator will devote full time to the duties and responsibilities normally expected of the administrator's position during the term of this contract, and shall not engage in any pursuit which interferes with the proper discharge of such duties and responsibilities.

The administrator agrees to participate in professional conferences and college level courses for the purpose of improving and stimulating the administrator's professional growth. Participation will be in accordance with board rules, policies, and statutory requirements. Necessary expenses will be paid for these meetings as provided by board policies.

The board will provide the administrator with a written job description of the administrator's services, duties, and obligations which shall be consistent with the duties and responsibilities normally expected of the administrators' position.

**SALARY**

In consideration for the services rendered, the board will pay to the administrator a salary of \$ \_\_\_\_\_ for the first year of this contract in accordance with the appropriate salary policies adopted by the board. Salary and benefits shall be determined as of the anniversary date of the contract, but salary and benefits after each anniversary date shall not be less than the salary and benefits for the period preceding the anniversary date. The salary will be paid (on a stated basis), less deductions required by federal and state law or authorized deductions as permitted by board policy.

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<sup>1</sup> Section 118.24(1) Wis. Stat. states: "A school board may employ a school district administrator, a business manager, and school principals and assistants to such persons. The term of each employment contract may not exceed 2 years. A contract for a term of 2 years may provide for one or more extensions of one year each." And, 118.24(8) personnel administrators and supervisors, curriculum administrators, and assistants to such administrative personnel, when employed by the school board of any school district to perform administrative duties only, may be employed for a term that does not exceed 2 years. A contract for a term of 2 years may provide for one or more extensions of one year each."

**INDIRECT COMPENSATION**

1. The administrator is entitled to \_\_\_\_\_ sick days annually, cumulative to a total of \_\_\_\_\_ days.<sup>2</sup>
2. The board will provide a long-term disability income policy beginning on the \_\_\_\_\_ day of disability and providing a monthly benefit equal to \_\_\_\_\_ percent (\_\_\_\_) of the administrator's monthly salary. The benefits under the long-term disability insurance will be a minimum of \_\_\_\_\_ years for illness and accident to age \_\_\_\_\_, with a maximum covered salary of \$ \_\_\_\_\_ (or \_\_\_\_\_ percent of the administrator's salary at the time the disability occurs.)
3. The administrator is entitled to \_\_\_\_\_ (*weeks/days*) of vacation each school year (July 1 through June 30).<sup>3</sup>
4. The administrator is entitled to time off on those holidays designated by the board.
5. Authorized use of the administrator's personal car in the administrator's work in the district will be reimbursed at the maximum rate allowed by the U.S. Internal Revenue Service.
6. The board will pay the premium for a policy of single or dependent coverage for hospital-surgical and major medical insurance selected by the board.
7. The board will pay the administrator's required deposit to the Wisconsin Retirement Fund.
8. The board will pay the premium for a policy of term life and accidental death and dismemberment insurance selected by the board. The benefit shall be equal to two times annual salary.
9. The board will pay the premium for a policy of single or dependent coverage for dental insurance selected by the board.
10. The board will pay the required annual dues for one state and one national professional association whose primary mission are to improve education and the professional competence of the administrator.
11. The board will pay (other benefits described here)<sup>4</sup> \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**TERMINATION BY MUTUAL CONSENT**

Upon mutual written agreement by the board and the administrator, this contract and the employment of the administrator may be terminated without penalty or prejudice against either the board or the administrator. In this event, the board will pay the administrator all remuneration and benefits accrued but unpaid during the period of employment immediately prior to such termination.

<sup>2</sup> Upon leaving employment of the district unused sick days will be paid to the administrator at \_\_\_\_\_% of the administrator's daily rate of pay.

<sup>3</sup> Vacation time is cumulative to a total of \_\_\_\_\_ days. The scheduling of the vacation time will be in accordance with policies of the board. Upon the administrator leaving the employment of the district unused vacation time will be paid to the administrator at \_\_\_\_\_% the administrator's daily rate of pay.

<sup>4</sup> Examples of other benefits are vision insurance, tuition reimbursement, prescriptions, tax sheltered annuities, deferred compensation plans, bereavement/funeral leaves, emergency business leaves, "bumping" rights, free admission to school events, family illness leave, school-provided car, early or post-retirement benefits. In addition, the district should review benefits afforded to other certified employees to make certain administrators are provided no less than the same benefits given to other certified employees.

**LIQUIDATED DAMAGES**

In the event the administrator breaches this contract by termination of services during the term hereof, 1% of the administrator's salary or \$750 is determined to be a reasonable liquidated damages which the parties, looking forward, reasonably anticipate will follow from such a breach and if the board wishes to pursue damages against the administrator, it shall recover from the administrator such amount of liquidated damages.

**PERFORMANCE EVALUTION**

The board will provide the administrator with a written performance evaluation at least once each school year.

Pursuant to DPI PI 8.01(2)(9), the evaluation shall be based on a board approved position description, including job related activities and shall include observation of the individual's performance as part of the evaluation data. The evaluations shall be performed by persons who have the training, knowledge and skills necessary to evaluate professional school personnel for purpose of discipline, job retention and promotion.

**DISCHARGE**

The board may terminate this contract and discharge the administrator from employment for just cause provided that the administrator has received prior notice in writing from the board of its intent and the alleged reason or reasons for such discharge. Upon written request, a hearing shall be conducted with full regard for due process.

**CONTRACT RENEWAL OR NONRENEWAL**

Renewal or nonrenewal of this contract will be governed by Sec. 118.24 Wis. Stat. The administrator shall receive prior written notice of the reasons for nonrenewal. The administrator shall have an opportunity to request a fair and impartial hearing. The administrator shall have the right to demand that the hearing be held in open session. The administrator shall have the right to present testimony and cross-examine those making allegations. The administrator shall have the right to be represented by counsel of his/her choice at such hearing.

**INVALID PROVISIONS**

If any article or part of this contract is held to be invalid by operation of law or by any tribunal of competent jurisdiction, of, if compliance with or enforcement of any part should be restrained by any tribunal, the remainder of the contract will not be affected thereby.

**SPECIAL PROVISIONS**

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Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
President of the Board

\_\_\_\_\_  
Administrator

\_\_\_\_\_  
Clerk of the Board

Action by the school board in adopting this contract is recorded in the board minutes of date.