

EMPLOYMENT AGREEMENT
Between
PHOENIXVILLE AREA SCHOOL DISTRICT
And
DR. ALAN D. FEGLEY

This Agreement entered into on the date set forth below (the "Agreement") by and between **Phoenixville Area School District** (hereinafter referred to as the "**School District**") and **Dr. Alan D. Fegley** (hereinafter referred to as "**Fegley**" or "**Superintendent**").

WHEREAS, the Board of School Directors of the School District (the "Board") desires to employ Fegley as Superintendent of Schools of the School District; and

WHEREAS, Fegley desires to serve as Superintendent;

NOW, THEREFORE, in consideration of the foregoing premises and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the School District and Superintendent agree as follows:

1.0 TERM AND QUALIFICATIONS

- 1.1 Fegley accepts employment as Superintendent of Schools of the School District for a term of five (5) years commencing on or about July 1, 2015 and ending at the close of business on June 30, 2020.
- 1.2 Fegley's employment and this Agreement are conditioned on Fegley at all times during the term hereof and of any extension of the term of this Agreement possessing all legal qualifications to serve as Superintendent. In the event he does not maintain legal qualifications to serve as Superintendent, Fegley shall notify the School District, this Agreement shall be terminated and Fegley's employment with the School District shall cease.
- 1.3 Fegley assures School District that he possesses all required legal qualifications to serve as Superintendent of Schools. Fegley agrees to take the required oath of office before a judge of the Court of Common Pleas or the Secretary of Education, and to file the oath with the Secretary of Education. This Agreement is conditioned on and shall not be effective until Fegley takes and files the oath of office and receives the legally required commission from the Secretary of Education.

2.0 PROFESSIONAL RESPONSIBILITIES

- 2.1 Superintendent agrees to faithfully, competently and professionally perform all the duties required of a Superintendent, including those set forth in the Pennsylvania School Code, those set forth in the policies of the School District, and those that may be established from time to time by the Board. Superintendent's duties include, but are not limited to, his responsibilities as set forth in the Job Description, which is

- attached 2.1.1 Recommending applicants for employment and directing and assigning all employees of the School District in accordance with legal requirements, the policies of the Board, and applicable collective bargaining agreements;
- 2.1.2 Supervising the administrative and supervisory staff;
 - 2.1.3 Recommending the organization of the supervisory and administrative staff of the School District;
 - 2.1.4 Ensuring that the policies of the School District and the requirements of law are being fulfilled;
 - 2.1.5 Promulgating administrative procedures to implement the policies of the School District that are necessary for the efficient and proper operation of the School District;
 - 2.1.6 Establishing annual objectives for the School District consistent with the direction and priorities established by the Board;
 - 2.1.7 Providing the data and information necessary to allow the Board to adopt a budget in accordance with the School Code;
 - 2.1.8 Informing the Board of all matter requiring legal action; in consultation with District Solicitor
 - 2.1.9 Performing all duties of Superintendent required by the School Code; and
 - 2.1.10 Performing other duties consistent with Superintendent as assigned by the Board.
- 2.2 Except as stated in paragraph 2.3, Superintendent agrees that he will devote his time and labor to the performance of his duties, on a full time basis for 223 days per contract year (defined as July 1 to June 30), inclusive of the paid holidays in the Act 93 Plan, accepting and performing no other employment during the term or any extension of this Agreement. Superintendent shall obtain approval from the Board President prior to exceeding 223 days worked in the contract year.
- 2.3 Notwithstanding anything herein to the contrary, Superintendent may, after notice to the School Board, which shall be duly recorded in the minutes, take part in professional activities for which he may receive remuneration, such as consulting, speaking, writing and publishing, or teaching, so long as those activities do not conflict or interfere with the performance of his duties under this Agreement, with the laws of the Commonwealth of Pennsylvania (including School Code Section 1007),
- 2.4 Superintendent shall have a seat on the Board and a right to speak on all matters before the Board, but not to vote, in accordance with Section 1081 of the School Code. Superintendent may attend and speak at all meetings of the Board or any committee of the Board, except any meeting where the purpose is to discuss

Superintendent's job performance Superintendent are being discussed. Nothing in this paragraph shall be construed as a waiver of any of Superintendent's rights to due process or to a hearing in accordance with law to which he may be entitled under law.

2.5 The Board acknowledges that Superintendent shall be responsible for the total day-to-day administration of the School District subject to officially adopted policies of the Board. It is further agreed that *official* contacts between the Board and the staff of the School District shall be made through Superintendent exclusively, except as otherwise stipulated in this paragraph. School District staff will be required to channel their concerns through the appropriate administrative levels and ultimately through Superintendent to the Board for effective operational efficiency. However, nothing in this paragraph shall preclude Board members serving as committee chairpersons from communicating and interacting with School District administrative staff members who have responsibility for functions and programs within the scope of the applicable committee's area of responsibility. In addition, nothing in this paragraph shall preclude the rights of Board members to exercise their responsibilities as individuals in the monitoring of School District operations, conducting oversight activities, or visiting schools, as set forth in Board policy or directed by the Board. This section further does not restrict the activities of Board members acting as ordinary citizens, parents or community members.

2.6 Nothing in this Agreement shall be construed as a limitation of the lawful powers and authority of the Board provided that the Board shall not violate any term of this Agreement.

3.0 PROFESSIONAL GROWTH AND EVALUATION

3.1 The School District encourages the continuing professional growth of Superintendent through his participation, as he might decide in light of his responsibilities as Superintendent, in programs conducted or sponsored by local, state and national school administrators and school board associations; seminars and courses offered by public or private institutions; informational meetings; and visits to other institutions and school entities.

3.2 The Board encourages Superintendent to attend at least one national, and one state-level administrative conference a year, as well as participate regularly in Superintendents' Study Councils at Chester County Intermediate Unit, the University of Pennsylvania, and the Suburban Schools Study Council. The School District shall: (1) permit a reasonable amount of time for Superintendent, as he deems appropriate, to attend such matters; and (2) pay for necessary fees for travel, registration and subsistence expenses.

3.3 There shall be an annual evaluation meeting conducted in executive session to be held no later than July 31 of each year of the term or any extension of this Agreement at which time the Board and Superintendent will discuss and evaluate the performance of Superintendent. Superintendent shall be evaluated based upon objective performance standards, which may include the following: successful completion of

Superintendent's professional goals jointly established by the Board and Superintendent; student achievement on Pennsylvania System of School Assessment ("PSSA") tests and Keystone Exams; student growth as measured by Pennsylvania Value-Added Assessment System; student attrition and graduation rates; financial management of the School District; overall job performance; and other additional criteria regarding School District operations that may jointly be agreed upon by Superintendent and the Board.

The following provisions shall apply to the annual evaluation process:

- a. The Board and Superintendent will agree in writing by no later than July 31 or another mutually agreeable date of each school year on the objective performance standards that will be used for Superintendent's evaluation in upcoming school year.
- b. The mutually agreed performance standards will be posted on the District's official website promptly after signature.
- c. A written evaluation based on the agreed performance standards signed by the President of the Board will be delivered to Superintendent at the evaluation meeting.
- d. Superintendent will have the right to respond in writing to the evaluation and to appear before the Board in executive session to respond.
- e. The written evaluation and response will be held in strict confidence between the Board and Superintendent and will not be disseminated to the general public by any member of the Board or by any District employee.
- f. After the completion of the evaluation for a particular school year, the Board will post on the District's official website the date on which the evaluation was completed and whether the Superintendent satisfied the agreed performance standards.
- g. The Board reserves the right to exercise maximum flexibility in determining the mechanics of Superintendent's evaluation, so long as the evaluation model satisfies the requirements of the law and the terms of this Agreement.
- h. In the event that the Board believes that there has been unsatisfactory job performance by Superintendent, the Board shall notify Superintendent in writing.
- i. In the event that the parties fail to meet or to perform the other activities required by this paragraph, such failure shall have no effect upon the other terms and conditions of this Agreement.

3.4 Superintendent may not be dismissed except in accordance with applicable law, including Section 1080 of the School Code.

4.0 COMPENSATION

- 4.1. Salary. The School District shall pay Superintendent at an annual rate of Two Hundred Thirty Thousand Dollars and No Cents (\$230,000), less required deductions and deductions requested by Superintendent. This annual salary rate shall be paid to Superintendent in accordance with the method of salary payment in effect for other certified employees or in some other way as may be mutually agreed to by both parties.
- 4.2. Salary Increases. The Board shall review and may adjust upward the salary of Superintendent annually and as part of such review shall take into consideration Superintendent's evaluation. If the Board evaluates Superintendent's performance as satisfactory or if the Board fails to evaluate Superintendent by June 1, of any year that this Agreement is in effect, Superintendent will be granted an increase of no less than the Federal Consumer Price Index as published annually, up to three and a half percent (3.5%) capped.
- 4.3. Performance Incentive Bonus. At its sole discretion, the Board may agree to give Superintendent an annual Performance Incentive Bonus Payment of an amount between zero (0) and eight percent (8%) based on performance over the previous year (not added to base salary).
- 4.4. Tax Deferred Withholdings. Upon request Superintendent and, when in compliance with all applicable law, the School District may withhold and transfer to a tax-deferred annuity program, regardless of whether it is referred to in this Agreement or not, any portion of Superintendent's salary, with the amount, program, and timing of the transfer to be as requested by Superintendent.
- 4.5. Sabbatical Leave Waiver. Superintendent waives any right to take a sabbatical leave of absence pursuant to School Code Section 1166. Superintendent may take a medical sabbatical leave if he qualifies..

5.0 OTHER BENEFITS AND COMPENSATION

- 5.1 Superintendent shall receive the following fringe benefits:
- 5.1.1 School Code Benefits. All benefits required by the Public School Code to be paid or provided for; and
- 5.1.2 Administrator Benefits. The same fringe benefits that are provided to the School District's administrators pursuant to its Administrative Compensation Plan currently in effect and as may be modified from time to time; provided, however, that Superintendent shall not be provided with any benefits under the Act 93 Plan that have been included in or added to the plan after the termination of Superintendent's employment with the School District.

- 51.2.1 Notwithstanding anything in the applicable Administrative Compensation Plan to the contrary, Superintendent shall pay toward the School District's cost of health care insurance for husband and wife coverage, an amount equal to twelve percent (12%) of the monthly premium amount. This shall be accomplished by appropriate payroll deduction.
- 5.1.2.2 The Superintendent will also have a deductible of \$1,000 for medical expenses. The District will add \$500 to the flex spending plan of Superintendent.
- 5.1.2.3 Patient Protection and Affordable Care Act. The parties agree that the health care coverage benefits offered under this agreement are intended to be structured so the School District is not obligated to pay any excise taxes, fees or penalties under the Patient Protection and Affordable Care Act, as amended, or its implementing regulations, for providing the benefits to Superintendent and any of his covered dependents. If the School District reasonably determines that it would be obligated to pay any such excise tax, fee or penalty for the health care coverage benefits provided under this agreement, the parties agree that said benefits shall be modified in a manner that will eliminate the potential exposure to such excise taxes, fees or penalties. The parties will discuss options to implement a modification that will avoid excise tax while reducing benefits or employee cost in the least manner possible and will endeavor to mutually agree on the modification. If the parties do not reach agreement by the date on which the excise tax would be triggered, the School District may make a decision on the appropriate option to implement a modification that will avoid excise tax while either reducing benefits or employee cost in the least manner possible.
- 5.1.3 Mandatory Form of Benefit. Superintendent shall have no choice or discretion with respect to receiving benefits under the applicable Act 93 Compensation Plan. However, any benefit that is to be made in the form of a non-elective employer contribution into a 403(b) account under the Plan shall be contributed into a 403(b) account for Superintendent provided such contribution would not exceed the contribution limits under Section 415(c) of the Internal Revenue Code (IRC) for the year. If the benefit exceeds the applicable contribution limits, the excess may be contributed into the District's 457(b) plan for Superintendent for the year in which the excess occurs. If an excess still remains, it shall be contributed into his 403(b) account in subsequent years until such benefit is fully made, subject to the limitations of IRC 403(b)(3). There is no cash option available for this benefit.

5.1.4 Minimum Benefit Levels. Notwithstanding the foregoing, Superintendent shall be provided with no less than the following fringe benefits:

5.1.4.1 Vacation, Floating Holidays, and Personal Days. Superintendent will not earn vacation, floating holidays, or personal days. Vacation, floating holidays, or personal days may not accumulate year to year in this contract. If the superintendent works more than the number of work days defined in section 2.2 promptly after July 1, he will be paid for each such day at his per diem rate applicable for the school year in which worked. If the Superintendent has remaining vacation days from his first contract they may not be used as vacation days but promptly after July 1, 2015, and each year thereafter, will be paid at Superintendent's per diem rate applicable for the school year in which paid, for fifteen (15) vacation days per school year until all days are used. The Superintendent may not carry any of these accrued vacation days into the final year of his contract. For the purposes of this contract the per diem rate is the annual salary divided by 223.

5.1.4.2 Sick Leave. Superintendent shall be provided with twelve (12) days of sick leave per school year, to be accrued at the rate of one (1) day per month of employment. Sick days shall be cumulative from year to year without any limitation on the number of days that may be accumulated. Superintendent shall be compensated for those sick days accumulated during his tenure at the School District.

5.1.4.3 Automobile, Mileage, and Expense Reimbursement. The School District shall reimburse Superintendent for school district travel at the maximum reimbursement rate established from time to time by the Internal Revenue Service. Any expenses incurred in doing the business of the Phoenixville Area School District shall be reimbursed to Superintendent through normal business office practices.

5.1.4.4 Insurance. Insurance in accordance with the following terms and conditions:

5.1.4.4.1 Notwithstanding anything in this Agreement to the contrary, the School District's obligation under this Agreement to obtain any type of insurance, shall cease if such insurance is not available in the marketplace. When any insurance is not available, the School District shall notify Superintendent and the parties shall negotiate for an alternative insurance or self-insured program.

5.1.4.4.2 Notwithstanding anything in this Agreement to the contrary, the School District's obligations under this

Agreement, except for health insurance, which is self insured, to provide insurance benefits described in this Agreement shall be limited to purchasing the requisite insurance policy. In no event shall the School District be deemed to be an insurer or self-insurer for any of the benefits to be provided by any required insurance policy.

5.1.4.4.3 Notwithstanding anything in this Agreement to the contrary, all insurance benefits shall be subject to the terms, conditions, limitations and exclusions captured in any insurance policy purchased by the employer and no employee may make any claims against the employer for any benefits that are not paid under any such insurance policies' terms, conditions, limitations, or exclusions. If Superintendent believes or asserts that any claim has been improperly denied by any insurance carrier, Superintendent's sole remedy shall be to file claims against the insurance carrier as may be allowed by law or the applicable insurance policy.

5.1.4.4.4 Life Insurance. The School District will provide an individual cash-value life insurance policy for Superintendent throughout the term or any extensions of the term of this Agreement. The face value of said policy shall be \$500,000. As additional salary the School District shall make an annual payment equal to the federal income tax liability associated with this insurance. This policy will be owned by the Superintendent.

5.1.4.4.5 Disability Insurance. Superintendent shall be a participant of the School District's group disability insurance policy that is made available to the School District's administrators; provided, however, that any such group policy must provide to Superintendent monthly benefits, in the event of total disability, in the amount of Ten Thousand Dollars and No Cents (\$10,000.00) with benefits to start under the policy in the case of a disability as defined in the policy no later than sixty (60) days after Superintendent's exhaustion of all earned and accumulated sick leave.

5.1.4.4.6 Retiree Health Care Benefits.

5.1.4.4.6.1 In the event that Superintendent retires or terminates employment for any reason other than dismissal for cause, the School District shall, at its cost, continue to provide health

care benefits to and for Superintendent and his spouse subject to the following terms, conditions and limitations:

- The plan offered shall be the same as those provided at the time by the School District to any administrative group;
- The School District shall pay for said benefits for Superintendent and his spouse until Superintendent turns age 65;
- Superintendent shall pay those deductibles, co-pays or assessments, if any, including any percent share of premiums that are paid by the administrative group whose plan of benefits he is receiving;
- Should Superintendent die prior to age 65, said health insurance shall continue to be provided by the School District at the School District's cost for single coverage for Superintendent's spouse, for the lesser of: (a) the life of the spouse; or (b) until December 30, 2025, subject to a contribution of the greater of \$100 per month or the percent of premium then charged to the administrative group.
- Except in the case of retirement, the School District's duty under this provision shall terminate in the event that Superintendent voluntarily leaves Phoenixville Area School District for any reason and/or Superintendent obtains "Employment" with any other public school entity or is employed by any employer that actually provides Superintendent and his spouse with employer paid health care benefits. "Employment" with another public school entity for purposes of this provision shall be employment that qualifies for mandatory membership in the Public School Employees Retirement System.

5.1.4.4.7 Retirement Benefits. In addition to any retirement contributions required under law to be made to the Public School Employees Retirement System, the District shall match, each pay period, the Superintendent's 403(b) or 403(b)(7) contribution up to the maximum permitted by Federal Tax Law to be contributed to a tax deferred retirement account during each calendar year in 2015 to 2020. The contributions shall be an employer contribution made into a 403(b) account for Superintendent and shall not be considered to be a salary reduction contribution. The maximum match will not be reduced in 2020 based on the number of months worked in the final contract year. The Board may make additional payments into the 403(b) program for Superintendent as, in its sole discretion, it deems appropriate. There is no cash option available for this benefit.

6.0 PROFESSIONAL LIABILITY

- 6.1 The School District agrees that it shall defend, hold harmless, and indemnify Superintendent from any and all demands, claims, suits, actions and legal proceedings brought against Superintendent while in the performance of his duties for the School District to the full extent authorized by the Political Subdivision Tort Claims Act. Such indemnification to Superintendent shall be by the School District and not by the Board or individual board members,
- 6.2 If in the opinion of legal counsel to the School District or counsel to the insurance carrier to the School District a conflict exists with regard to providing a defense to Superintendent under the School District's insurance policy and the insurance carrier does not provide and assign separate counsel to represent Superintendent, then Superintendent may engage separate legal counsel for which the School District shall indemnify Superintendent for costs and legal fees applicable to such items for which the School District has agreed to provide indemnification as stated above. Those costs and legal fees shall not exceed reasonable rates and amounts, and the School District is not required to pay for such legal costs and fees if recoverable by Superintendent under any other insurance or professional association membership.
- 6.3 The School District shall purchase a legal liability insurance policy, which shall be subject to the approval of Superintendent, which approval shall not be unreasonably withheld, and which shall define, the insured as including Superintendent.

7.0 TERMINATION OR RENEWAL OF EMPLOYMENT AGREEMENT

- 7.1 This Agreement is made in accordance with and subject to the terms, conditions and limitations contained in the Public School Code. As a result, this Agreement may be terminated by either party for all reasons permitted by law and subject to all terms, conditions and limitations established in law with respect to the termination of this Agreement.
- 7.2 The Board will require a minimum notification of three months (90 days) notification of Superintendent's intent to leave the School District.
- 7.3 Renewal. Superintendent will advise the Board in writing at least twelve (12) months prior to the end of this contract as Superintendent's wish concerning extension and continued employment after the term of this contract. Unless Superintendent has advised the Board in writing of Superintendent's wish not to be considered for renewal, at a regular meeting of the Board occurring at least one hundred fifty (150) days prior to the end of the term of this contract, the agenda shall include an item requiring affirmative action of five (5) or more members of the Board to notify Superintendent that the Board intends to renew the contract for a further term of from three (3) to five (5) years or that the contract will terminate and other candidates will be considered as Superintendent. If the Board fails to take such action at a regular meeting occurring at least one hundred fifty (150) days prior to the end of the term of this contract, Superintendent will continue in office for a further term of the same length as the term of this contract.

8.0 AMENDMENTS

- 8.1 This Agreement may be amended only by a writing signed by the parties.

9.0 SURVIVAL

- 9.1 The indemnity and defense provisions of this Agreement shall survive the specific term or termination of this Agreement.

10.0 SAVINGS CLAUSE

- 10.1 If, during the term of this Agreement, it is found that a specific clause of the Agreement is illegal in federal or state law, the remainder of the Agreement not affected by such a ruling shall remain in force.

11.0 GENERAL PROVISIONS

- 11.1 Entire Agreement. This Agreement represents the entire agreement between the parties with respect to Superintendent's employment by the School District and supersedes all prior oral and written agreements between the parties with respect to employment and contains all covenants and agreements between the parties with respect to such employment.
- 11.2 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.
- 11.3 Illegal Provisions. If any portion of this Agreement shall be declared illegal and unenforceable, the remaining provisions shall remain in full force and effect notwithstanding such illegal provisions.
- 11.4 Dispute Resolution. If there is any dispute about the terms of Superintendent's employment, which includes the terms and conditions of this Agreement, the parties agree to resolve such dispute by a submission to the American Arbitration Association, which shall appoint an arbitrator in accordance with its rules and whose decision shall be final and binding upon the parties.


WHEREOF, the parties have hereunto set their hands and seals intending to be legally bound hereby.

PHOENIXVILLE AREA SCHOOL DISTRICT

Dated: 10/16/14

By: 

President

By: 

Secretary

SUPERINTENDENT

Dated: 10/16/14

By: 

Alan D. Fegley

Witness:

By: 
