



Board Agenda Item #	Agenda # VI. A
Date:	August 10, 2017
To:	Magnolia Board of Directors
From:	Dr. Saken Sherkhanov, Board Chair
Staff Lead:	Jerry Simmons, YMC Legal Counsel
RE:	Renewal of CEO and Superintendent

Proposed Board Recommendation

I move that the board approve the renewal of the CEO contract through 2017-18.

Background

The CEO contract was extended through August 31, 2017 through mutual agreement. The ad hoc committee met to consider the renewal of the contract and recommends the attached contract be approved.

Budget Implications

It continues compensation at the current rate and conditions through the end of the fiscal year consistent with the adopted budget.

- CFO Review

How Does This Action Relate/Affect/Benefit All MSAs?

The staff of all MSAs benefit from the effective leadership of the CEO.

Name of Staff Originator:

Jerry Simmons, YMC Legal Counsel

Attachments

Contract

FIXED TERM EMPLOYMENT AGREEMENT
Between
MAGNOLIA EDUCATIONAL & RESEARCH FOUNDATION DBA
MAGNOLIA PUBLIC SCHOOLS
& CAPRICE YOUNG, ED.D

THIS EMPLOYMENT AGREEMENT (“Agreement”) is entered into by and between the above named employee (“Employee”) and Magnolia Educational & Research Foundation dba Magnolia Public Schools (“MPS”), a California non-profit public benefit corporation, overseen by a Board of Directors (“Board”) which operates public charter schools in the State of California and desires to hire employees who will assist MPS in achieving the goals and meeting the requirements of MPS’s charter petitions, renewals and material revisions, and in implementing its purposes, policies, and procedures. The parties recognize that MPS is not governed by the provisions of the California Education Code, except as expressly set forth in the Charter Schools Act of 1992.

WHEREAS, MPS and the Employee wish to enter into an employment relationship under the conditions set forth herein, the parties hereby agree as follows:

A. STATUTORY PROVISIONS RELATING TO CHARTER SCHOOL EMPLOYMENT

1. MPS has been established pursuant to the California Nonprofit Public Benefit Corporation Law and operates public charter schools in California pursuant to the Charter Schools Act of 1992, Education Code section 47600, et seq.
2. The employee signing below expressly recognizes that she is being employed by MPS and not the respective authorities under which the schools operated by MPS are chartered.
3. Pursuant to Education Code section 47610, MPS must comply with all of the provisions set forth in its charter, but is otherwise exempt from the laws governing school districts except as specified in Education Code section 47610.
4. MPS shall be deemed the exclusive public school employer of the employees at MPS for purposes of Government Code section 3540.1.

B. EMPLOYMENT TERMS AND CONDITIONS

1. DUTIES

The Employee shall work in the position of Chief Executive Officer (“CEO”) and Superintendent. The Employee shall work at the following location: Magnolia Public Schools Central Office. The Employee will perform such duties as the Board may reasonably assign and the Employee will abide by all MPS’s policies and procedures as adopted and amended from time to time.

The CEO and Superintendent position is responsible for the academic, operational, financial and compliance success of MPS, including each of the MPS charter schools.

A copy of the job description for the above position is attached hereto and incorporated by reference herein as **Exhibit A**. These duties may be amended from time to time in the sole discretion of MPS.

Additionally, the Employee will be expected to meet and progress on the performance objectives outlined in the Board Evaluation Metrics, which are attached hereto and incorporated by reference herein as **Exhibit B**, as well as any additional objectives that the Board may reasonably assign. The Board Evaluation Metrics and any other objectives assigned will be reviewed in evaluating the Employee's performance.

2. TERM/WORK SCHEDULE

Subject to Section C, "Termination of Contract" herein, term of this position shall be one (1) year commencing on July 1, 2017 and ending June 30, 2018. In the event that the Board wishes to offer the Employee renewal of this Agreement, the Board will issue notice of its intent to renew on or before April 30, 2018. The parties agree that failure to provide notice of non-renewal will result in the Agreement lapsing per its own terms.

The CEO and Superintendent position is a full-time position exempt from overtime law. As a minimum performance requirement, the work schedule for the Employee shall be Monday through Friday, with eight daily work hours. As this position is exempt from overtime, additional duties which cannot be completed during regular work hours of the Employee, may be required to be performed outside of the anticipated work schedule, including but not limited to attendance at evening meetings, participation in evening and after hour phone conferences, and performance of any other duties remaining unmet.

Workdays for the Employee shall be consistent with the applicable calendar of workdays for this position. The current year schedule is attached hereto and incorporated by reference herein as **Exhibit C**.

The Employee will not render services in person or by electronic means, paid or otherwise, for any other person or entity during contracted work hours with MPS. During her employment, the Employee shall devote her full business time, energy and ability to the interests of MPS, shall devote best efforts thereto, and shall not engage in any other business activity that would materially interfere with the performance of her duties under this Agreement.

3. COMPENSATION

The Employee will receive a gross base annual salary of \$237, 350.16, to be paid twice monthly (\$9,889.59 per pay period), subject to all regular withholdings. The Employee's compensation may be prorated depending on whether the Employee remains employed, or in active work status, for all scheduled workdays of the position. Based upon the performance of the Employee as documented in a performance evaluation, as well as the financial stability of MPS, the Employee may be eligible to receive additional compensation in the form of a salary increase or bonus from the Board. As noted above, the Employee is exempt from overtime law and shall not be entitled to additional compensation for performing duties outside of the scheduled work year/day.

4. BENEFITS

The Employee shall be entitled to participate in designated employee benefit programs and plans established by MPS (subject to program and eligibility requirements) for the benefit of its employees, which from time to time may be amended and modified by MPS in its sole discretion. The Employee is also entitled to the following:

- Professional dues/association memberships up to \$1,000 annually paid by MPS.
- Paid time off and other related benefits are set forth in the Employee Handbook as it applies to Central Office staff.
- Continued participation in industry-related boards and activities including GLG professional council.
- Magnolia shall reimburse Young for all documented actual and necessary expenses personally incurred within the scope of employment in accordance with applicable Magnolia policy and authorization.
- In the event Young uses her personal vehicle for Magnolia business, Young will be reimbursed for mileage at the standard rate established by the Internal Revenue Service.

The Employee is expected to travel to outlying schools such as San Diego and attend meetings in Sacramento when necessary.

MPS agrees to provide the Employee with PERS or a comparable retirement plan during the term of this Agreement.

5. PERFORMANCE EVALUATION & OBJECTIVES

The Board shall evaluate the performance of the Employee at least once semi-annually. This evaluation shall be based on the job description and progress on or completion of the performance objections set forth in Exhibit B, Board Evaluation Metrics. If applicable, the evaluation shall include recommendations as to areas of improvement in all instances where the Board deems such to be necessary or appropriate. A copy of the written evaluation shall be delivered to the Employee and she shall have the right to make an oral or written response to the evaluation. Within thirty (30) days of the delivery of the written evaluation of the Employee, the Board shall meet with the Employee to discuss the evaluation.

6. FINGERPRINTING/TB CLEARANCE

Fingerprint clearance for the Employee will be acquired through submitting the Employee's fingerprints to the California Department of Justice. The Employee will be required to assume the cost of all fees related to the fingerprinting process. The Employee will be required to submit evidence from a licensed physician and/or licensed entity that the Employee was found to be free from tuberculosis risk factors, or active tuberculosis if risk factors were identified. Both clearances must be in place prior to the first day of service.

7. LICENSURE

The Employee understands that employment is contingent upon verification and maintenance of any applicable licensure and/or credentials.

8. CHILD ABUSE AND NEGLECT REPORTING.

California Penal Code section 11166 requires any child care custodian who has knowledge of, or observes, a child in her professional capacity or within the scope of her employment whom she knows or reasonably suspects has been the victim of child abuse to report the known or suspected instance of child abuse to a child protective agency immediately, or as soon as practically possible, by telephone and to prepare and send a written report thereof within thirty-six (36) hours of receiving the information concerning the incident. By executing this Agreement, the Employee acknowledges she is a childcare custodian and is certifying that he/she has knowledge of California Penal Code section 11166 and will comply with its provisions.

9. EMPLOYEE RIGHTS

Employment rights and benefits for employment at MPS shall only be as specified in this Employment Agreement, the relevant MPS charter petition, renewal and/or material revision, the Charter Schools Act and MPS's Employee Handbook, which from time to time may be amended and modified by MPS. Other applicable agreements, directives or advisories from the California Department of Education or the State Board of Education may affect employment rights and benefits. During the term of this Agreement, the Employee shall not acquire or accrue tenure, or any employment rights with MPS.

10. IMMIGRATION LAW COMPLIANCE

The employee shall be required to submit documentation to MPS showing proof of U.S. citizenship or authorization to work in the United States.

11. PROPRIETARY INFORMATION AND INVENTIONS

The Employee understands that, while employed at MPS, she will may access to MPS's confidential and proprietary information, including but not limited to, personnel, marketing, financial operations, trade secrets, formulas, processes, and other compilations of information ("Proprietary Information"). The Employee shall not disclose any of MPS's Proprietary Information directly or indirectly or use it in any way except as reasonably necessary in the course and scope of her employment with MPS. The Employee further acknowledges and agrees that all processes, inventions, patents, copyrights, trademarks and other intangible rights that may be conceived or developed by the Employee during the period of time while employed at MPS and in exchange for compensation/as required by the Employee's job duties shall be the sole property of MPS, and the Employee hereby assigns all such rights to MPS. The Employee specifically further agrees to maintain the confidentiality of all student data and information pursuant to the Family Educational Rights and Privacy Act (FERPA) and to not take and/or disseminate any images of any of MPS's students.

12. CONFLICTS OF INTEREST/OUTSIDE PROFESSIONAL ACTIVITIES

The Employee acknowledges and understands that MPS is considered a public entity for purposes of conflict of interest laws. The Employee specifically agrees to abide by the terms and conditions of MPS's Conflict of Interest Policy, MPS's Anti-Nepotism Policy, and agrees to abide by the applicable terms and conditions of the Political Reform Act. The Employee may undertake for consideration outside professional activities, including consulting.

speaking, and writing. The outside activities shall not occur during regular work hours. MPS shall in no way be responsible for any expenses attendant to the performance of such outside activities. The Employee will undertake no activity which interferes with or impedes MPS's ability to achieve its non-profit corporate mission of providing California's traditionally underserved public school pupils and stakeholders with school choice options and excellence in academic achievement with particular emphasis on the fields of mathematics and science.

C. **TERMINATION OF CONTRACT**

This Agreement may be terminated by any of the following:

1. **Termination For Cause**: the Board may terminate The Employee at any time for cause. In addition, Employee may be disciplined (e.g. reprimand, suspension without pay) for cause during the term of this Agreement. "Cause" shall include, but is not limited to, breach of this Agreement; misconduct or dishonest behavior; conviction of a crime involving dishonesty, breach of trust, or physical or emotional harm to any person; any ground enumerated in the Employee Handbook; or the Employee's failure to satisfactorily perform his duties or performance objectives as set forth in this Agreement, as defined by law, or as specified in the above-mentioned and incorporated by reference job description.

The Board shall not terminate this Agreement pursuant to this paragraph until a written statement of the grounds of termination has first been served upon the Employee. The Employee shall have the right to a representative of his choice at a conference with the Board. The conference with the Board shall be the Employee's exclusive right to any hearing otherwise required by law.

2. **Early Termination Without Cause**: The Board may unilaterally and without cause or advance notice terminate this Agreement. In consideration of the Board's right to terminate this Agreement without cause, the Board shall pay to the Employee the remainder of his salary (based upon any remaining calendared work days) for the term of this Agreement or for a period of two (2) months following the effective date of termination, whichever is less.
3. **Death or Incapacitation of the Employee**: The death of the Employee shall terminate this Agreement and all rights entitled under this Agreement. In the event that the Employee becomes incapacitated to the extent that, in the judgment of the Board and a licensed physician, the Employee may no longer perform the essential functions of his job with reasonable accommodation, as set forth in job specifications, the Board may terminate this Agreement.
4. **Revocation/Nonrenewal**: In the event that the MPS charters with their granting agencies are either revoked or nonrenewed, this Agreement shall terminate immediately upon the effective date of the revocations/nonrenewals of the charters, and without the need for the process outlined in Section C. Subdivisions 1 or 2 above.

- D. **NON-RENEWAL/EXPIRATION OF TERM** The Board may elect not to offer future employment agreements to the Employee at its sole discretion, without cause, and this Agreement will

lapse by its own terms. The Employee shall be entitled to one (1) month's salary as severance in the case of non-renewal.

E. REQUIRED CONTRACT PROVISIONS The following provisions are required to be included in this Agreement by the California Government Code:

1. **Limitations on Cash Settlement.** In no case upon termination of this Agreement shall the maximum cash settlement exceed an amount equal to the monthly salary of the CEO/Superintendent position multiplied by twelve (12).
2. **Required Reimbursements.** The CEO and Superintendent shall be required to reimburse MPS for any salary or fees she receives from MPS in relation to her placement on paid administrative leave pending criminal charges if she is convicted of a crime involving the abuse of her office/position. Regardless of the term of this Agreement, if the Agreement is terminated, the CEO and Superintendent must reimburse MPS for any cash settlement she receives in relation to her termination if she is convicted of a crime involving the abuse of her office/position.

F. GENERAL PROVISIONS

1. **ENTIRE AGREEMENT** This Agreement supersedes any and all other Agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other Agreement, statement or promise related to the subject matter of this Agreement which is not contained in this Agreement shall be valid or binding.
2. **WAIVER** Either party to this Agreement may specifically and expressly waive, in writing, compliance by the other party thereto with any term, condition or requirements set forth in this Agreement. Either party to this Agreement may specifically and expressly waive, in writing, any breach of any term, condition or requirement of this Agreement by the other party hereto. However, in the event that either party makes or gives such a waiver, such action shall not constitute a further or continuing waiver of any preceding or succeeding breach, or requirement of compliance with, the same or any other provision or contractual requirement, unless a specific statement to the contrary is contained with such waiver. No waiver or consent shall be implied from the silence or from the failure of any party to act, except as otherwise specified in this Agreement.
3. **JURISDICTION** The parties hereby understand and agree that this Agreement, and the attachments hereto, have been negotiated and executed in the State of California and shall be governed by, and construed under, the laws of the State of California.
4. **INTERPRETATION AND OPPORTUNITY TO COUNSEL** The parties hereto acknowledge and agree that each has been given an opportunity to independently review this Agreement with legal counsel. In the event of a controversy or dispute between the parties concerning the provisions herein, this document shall be interpreted according to the provisions herein and no presumption shall arise concerning the draftsman of such provision.
5. **SEVERABILITY** If any term, provision, condition or covenant of the Agreement shall, to any extent, be held invalid or unenforceable, the remainder of the Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent provided by law.

6. EXECUTION OF COUNTERPARTS This Agreement may be executed in any number of
7. counterparts, each of which shall be deemed a duplicate original when all counterparts are executed, but all of which constitute a single instrument.

G. ACCEPTANCE OF EMPLOYMENT

SIGNATURES In witness therein, we affix our signatures to this Agreement with the full and complete understanding of the relationship between the parties hereto.

The Governing Board of and on Behalf of Magnolia
Public Schools

DATED: _____

By: _____
Saken Sherkhanov, Board President

Employee

DATED: _____

By: _____
Caprice Young, CEO and Superintendent

This Employment Agreement is subject to ratification and approval by the Governing Board of Magnolia Public Schools.

Exhibit A - Director Job Description

CHEIF OFFICER AND SUPERINTENDENT JOB DESCRIPTION

Job Summary: The Chief Executive Officer (“CEO”) and Superintendent is responsible for the leadership, strategic vision and growth of Magnolia Public Charter Schools and future Magnolia schools, as well as assisting the Board of Directors (“Board”) in fulfilling its responsibilities. The CEO/Superintendent provides daily operational oversight and guidance with regard to safety, academic achievement, fiscal integrity and compliance with all laws and regulations.

The primary responsibility of the CEO/Superintendent is to carry out the strategic plans and policies as established by the Board, including the academic performance and operations of the existing schools and future campuses and fiscal oversight. The CEO/Superintendent reports to the Board.

Job Duties:

- Provide the leadership, vision, and strategic direction for the school(s);
- Structure the organization of the school(s) to achieve the vision, philosophy and mission;
- Oversee all operations of the school(s) and report to the Board on their progress;
- Assist the Board in the development of governance policies for review and approval;
- Negotiate, on behalf of the Board when duly authorized to do so, all vendor and service contracts, orders, licenses, or other agreements of a special nature unless the signing is expressly limited by the Board;
- Oversee all aspects of the school(s) including personnel, financial matters, the academic program, facilities, and operations;
- Work with the Board Chair to draft the agenda for all Board meetings;
- Recommend an annual budget to the Board, including an accounting of federally-funded programs as required by applicable guidelines;
- Hire and oversee performance of charter management organization (“CMO”) staff, regional directors, and principals whose jobs are to support/lead the operations, academic performance, business, marketing and development work;
- Oversee hiring, supervision, professional development, evaluation and dismissal of all personnel at school(s) and the CMO;
- Oversee the allocation of resources and school model decisions to drive the best balance between financial, operational, and academic concerns;
- Develop an overall human capital strategy and establish career paths within the CMO;
- Build a high performing, consistent data-driven culture at the CMO at all levels of its operations;
- Drive increased performance in the current school(s) and further refine the academic model;
- Determine the scope and sequence of educational programs according to the charter objectives;
- Implement well-researched, creative ways to educate the students in the school(s);
- Serve as primary contact with the State Department of Education;
- Follow all legal mandates from the U.S. Department of Education and the State of California in all aspects related to funding, reporting and regulations associated with charter schools;
- Work with outside counsel to support the legal needs of the organization;
- Assist the Board in seeking donors of time, funds and resources in support of the school(s);
- Manage any required facility acquisition, maintenance and renovation efforts; and
- Perform other duties and responsibilities as are customary for the office of the CEO/Superintendent and as may be assigned from time to time by the Board.

Exhibit B – Board Evaluation Metrics

For all Magnolia Schools

Academic:

To see an increase in Smarter Balanced Assessment Score in all Magnolia Public Schools as reported by the state in August, 2018

1. 2% increase in Math scores of all students tested who have been with Magnolia for at least three years.
2. 2% increase in ELA scores of all students tested who have been with Magnolia for at least three.
3. 2% increase in SBAC scores for math and ELA for EL and SPED students in all Magnolia Public Schools.
4. The ADA rate at each school must be at least 93 percent of the projections approved at the board meeting.
5. Chronic Absenteeism rate at each school must be less than 10%.
6. Student performance in the Spring Summative Assessment of the Smarter Balanced Assessment test (SBAC) will be as follows: the percentage of Magnolia students who met or exceeded performance standards will be greater than the similar resident school median in each category for both ELA and mathematics.
 - This would be evaluated for Year 1.
 - For Years 2 and after, we'd look for the percentage that met or exceeded performance standards to increase.
7. Review and update these goals, including addition of growth goals with the Board Academic Committee following each August test data release.
8. Work closely with the Academics Committee to review, monitor and exceed student outcome goals established in our SPSA and LCAP school report documents in our continuous pursuit of excellence as measured by the state report cards and relative to other programs our students could attend.

Personnel and Human Resources:

9. Up-to-date implementation of PayCom system, including uploading all personnel information by the end of September 2017. In this case it means that all employee documents will be uploaded according to compliance schedules, regular reporting will be available, clean uploads to the financial system are being made in a timely way, and staff are not maintaining separate files or processes that duplicate PayCom and potentially add inconsistency or errors.
10. Proper disbursement of to all current employees and resolving outstanding problems from past years related to STRS/PERS by the end of 2017-18
11. Clear and detailed strategy for teacher recruitment to be presented to the board in October of 2017-2018 academic year, and fulfilling that plan in a timely manner
12. Expand the salary scale to include a performance-based evaluation. Bring a revised administrator scale to the board that includes a larger portion of compensation tied to performance incentives by October 2017
13. Resolving immigration-related concerns by the start of September 2018 including the outstanding issues with the former employees and disbursements made on their behalf. The board would like to see the staff meet with LAUSD as required in the settlement agreement and then restart the international teachers program approved and supported by the State Board of Education to identify, train and onboard math and science talent from a broad range of countries. Should there be any unresolved problems at any time, the board should be informed immediately and action plan should be presented to address these issues
14. Delegation of authority – the executive staff are required to perform their duties effectively in support of the overall success of the organization. MPS Executive staff must have a current job description that includes evaluation metrics and the frequency of a performance evaluation. Board is recommending a 6-month evaluation and a year-end evaluation to determine if the performance is acceptable. Present full metrics for home office staff performance evaluation in October of 2017-2018.

Management & Board Oversight:

15. Clear, transparent and timely communication between MPS Home Office and MPS Board with timely reporting of any critical development and communication with other local agencies to the board
16. All committees are to meet at least three times per academic year according to a schedule set at the beginning of the academic year. Board members are to conduct committee meetings directly with responsible C-team members. All C-team members should present items directly to corresponding committee members in their respective areas with CEO serving as facilitator of the discussion.
17. Work with the board to improve Magnolia's ability to be positively considered for philanthropy and other grants
18. Report annually to the board on C-Team and school site performance
19. Obtain a favorable FCMAT/School Services report with no unaddressed findings or concerns
20. Train and support new board members appointed due to vacancies and in compliance with the terms of authorizer directions
21. Passing reports from authorizer site visits
22. Completion of or agreed to non-continuation of the OIG investigation
23. Recommendations from the board should be taken seriously and necessary actions should be taken in a timely, agreed to manner
24. Recommendations from individual board members that address previous or future governance level decisions should be brought to the next practical board meeting or appropriate committee to be addressed

Finance:

25. Justify and explain any budget fluctuations over 3% from the June budget. Remain within 3% of the P1 revised budget through the conclusion of the fiscal year.
26. Positive net income for combined all schools and Home Office at the end of the year
27. Make recommendations to revise the Home Office budget over time with the following goals:
 - Improving compensation and support for school site staff
 - Recommend the vendor contract changes to reduce to \$2.4m
 - Reducing MERF budget to \$5.3m
 - Developing self-sustaining business models for MSA-4, MSA-6 and possibly MSA-5 to narrow the range of percentages charged to schools for MERF support.
 - Reduce public relations expenses
 - Revise the CMO fee allocation to minimize the expense to schools while creating additional funds to increase school site compensation and retention rate
28. Unqualified independent audit report
29. Update the five year capital plan following the bond issuance

Facilities:

30. Prepare a strategic plan for all schools at Prop 39 facilities
31. MSA-SD facility construction must be finished by January 15, 2018. School will open in an alternate facility with main campus completed in September and entire project to be completed by January 15, 2018.
32. Timely completion of MSA-SA and MSA-1 facility projects for the start of the 2018-19 school year.

Stakeholders:

33. Minimum 3900 students enrolled for FY17-18
34. Extensively engage all MPS stakeholders such as parents, students, teachers and local community in crafting the strategies, implementing academic policies and engaging in civic participation. School site leaders or MPS Central Office should address any concerns by these stakeholders in a timely manner.

Exhibit C - Work Calendar

July 1, 2017 through June 30, 2018, excluding school holidays as posted on the Magnolia Public Schools website and modified from time to time.

Board Evaluation Metrics

This is a compilation of the board members' input and staff response.

These items are based on the LAUSD Staff Denial report and other Board materials provided. These are areas that the CEO will be evaluated on at the point in time that is designated by the agreement.

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