

SEPARATION AGREEMENT

**TO BE HELD IN ESCROW AT THE LAW FIRM OF WILLIAM KOY
AND THE LAW FIRM OF
DIFRANCESCO, BATEMAN, KUNZMAN, DAVID, LEHRER & FLAUM, P.C.**

THIS SEPARATION AGREEMENT ("Agreement") is made and entered into this day of October , 2021, by and between the **BOARD OF EDUCATION OF THE TOWNSHIP OF TEANECK, BERGEN COUNTY**, with administrative offices located at 651 Teaneck Road, Teaneck, New Jersey 07666 (hereinafter referred to as "the Board"), and **DR. CHRISTOPHER IRVING**, who resides in New Jersey (hereinafter referred to as "Dr. Irving").

PREAMBLE

This Agreement is informed by the principles of mutual respect and collaboration between the Board and Dr. Irving -- the essence of which is that while conflict and disagreement are healthy aspects of their relationship, the Board and Dr. Irving will always be respectful of one another, and unified in final decisions, whether those decisions are debated in public, in executive session, or in committee. Disagreement and conflict between the Board and Dr. Irving will never be considered a breach of this Agreement. Rather, it is the parties' intent to model respectful dialogue and civil debate between them at all times.

WITNESSETH:

WHEREAS, the Board is a body politic and corporate, organized and existing by virtue of the laws of the State of New Jersey, N.J.S.A. 18A:11-1, which is entrusted with maintaining and conducting the public schools of Teaneck; and

WHEREAS, Dr. Irving is employed by the Board as its Superintendent of Schools; and

WHEREAS, the Board and Dr. Irving have been engaged in discussions regarding Dr. Irving's separation from the Board; and

WHEREAS, the Board and Dr. Irving have arrived at a mutually agreeable settlement regarding Dr. Irving's separation from the Board's employ; and

WHEREAS, the parties, wishing to resolve all issues related to Dr. Irving's employment amicably, hereby stipulate to settle same, subject to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the legal sufficiency of which is hereby acknowledged by the parties, they agree as follows:

1. Resignation

Dr. Irving shall resign from all employment with the Board at the close of business on June 30, 2022, or earlier, if Dr. Irving so informs the Board, or by operation of this Agreement. A true copy of Dr. Irving's Letter of Resignation is attached hereto as Exhibit "A." Dr. Irving's Letter of

Resignation to the Board shall be placed in escrow with the Board's attorney and with Dr. Irving's attorney.

2. Non-Disparagement

The Board and Dr. Irving agree that neither party will disparage the other in any manner as long as, nor after, Dr. Irving is the Superintendent of Schools for the Board.

3. Attorneys' Fees

The Board shall reimburse Dr. Irving for legal fees paid to Mr. William Koy, Esq., incurred up to and including the negotiations over this Agreement.

4. Letter of Reference

The Board shall provide Dr. Irving with a letter of reference, a copy of which is attached hereto as "Exhibit B."

5. Material Breach

"Material breach" is a failure to perform this Agreement that strikes so deeply at the heart of the parties' agreement that it renders the agreement "irreparably broken" and defeats the purpose of forming this Agreement in the first place.

a. Process:

i. Arbitrator

The Board and Dr. Irving will mutually agree upon an Arbitrator who will decide the issue of "material breach" of this Agreement.

ii. Allegation of Material Breach

If a party to this Agreement believes the other party has materially breached the Agreement, then that party will so inform the Arbitrator, on notice to the other party.

iii. Expedited, Emergent Hearing

The Arbitrator will hold an expedited, emergent hearing in order to determine whether the accused party has materially breached this Agreement.

iv. Final/Binding/Non-Appealable Decision

The Arbitrator's decision will be final, binding, and not appealable.

v. Legal Fees

Any legal fees incurred by either party in furtherance of this process will be paid by the non-prevailing party. By way of example, if Dr. Irving alleges that the Board materially breached this Agreement, and the Arbitrator finds that the Board did not materially breach this Agreement, then Dr. Irving will pay any legal fees incurred by the Board in

furtherance of this process. Conversely, if Dr. Irving alleges that the Board materially breached this Agreement, and the Arbitrator finds that the Board *did* materially breach this Agreement, then the Board will pay any legal fees incurred by Dr. Irving in furtherance of this process.

b. Consequence of Material Breach

- i. **Material Breach by Dr. Irving:** If the Arbitrator finds that Dr. Irving materially breached this Agreement, then the Board shall accept Dr. Irving's Letter of Resignation at a public Board meeting, effective at the time the Arbitrator ruled that Dr. Irving materially breached this Agreement.
- ii. **Material Breach by the Board:** If the Arbitrator finds that the Board materially breached this Agreement, then Dr. Irving shall rescind his Letter of Resignation, and all provisions of Dr. Irving's current contract with the Board, expiring on June 30, 2025, will govern the parties' employment relationship.
- iii. **Material Breach by Any Party to this Agreement:** Any party, individually or collectively, who is found to have materially breached this Agreement may, in addition to the consequences set forth in Sections "i" and "ii" above, be subject to jeopardy for Official Misconduct, a crime of the second degree, pursuant to N.J.S.A. 2C:30-2, and discipline pursuant to the School Ethics Act, N.J.S.A. 18A:12-21, et seq.

6. District-Wide Communications

Dr. Irving shall provide the Board with the opportunity to view any District-wide communications, prior to or within twenty-four (24) hours of disseminating such communications throughout the Teaneck School Community via electronic mail. "District-wide communications" refers to any messaging from Dr. Irving to the parents and guardians of the Teaneck School District. "District-wide communications" does not include any messaging from Dr. Irving to Teaneck School District staff.

7. Mutual Releases

In exchange for the above consideration, Dr. Irving, his heirs and assigns, and the Board, personally and officially, individually and collectively, its past and present members, all officers and administrators, its attorneys, agents and employees, personally and officially, as well as their successors and assigns, hereby irrevocably and unconditionally waive, release and forever discharge any and all claims and rights of any kind that either party may have, whether now known or unknown, suspected or unsuspected, including, but not limited to, arising out of or in any way connected with Dr. Irving's employment with the Board. These claims and rights released include, but are not limited to, claims under the Age Discrimination in Employment Act, the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001, et seq., the Family and Medical Leave Act of 1993, 29 U.S.C. §2601 et seq., Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, et seq., the Americans With Disabilities

Act, 42 U.S.C. §12101, et seq., the Fair Labor Standards Act, 29 U.S.C. §201 et seq., the Rehabilitation Act of 1973, 29 U.S.C. §701 et seq., Executive Orders 11246 or 11141, the Worker Adjustment and Retraining Notification Act, 29 U.S.C. §2101 et seq., the Conscientious Employee Protection Act, N.J.S.A. 34:19-1, et seq., the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq., the New Jersey Family Leave Act, N.J.S.A. 34:11B-1, et seq., the New Jersey Equal Pay Act, N.J.S.A. 34:11-56.1, et seq., the New Jersey Worker Health & Safety Act, and New Jersey wage payment laws, all as amended; Title 18A of the Education Laws; Title 6A of the Education Regulations; and civil, criminal, or statutory laws, including any and all human rights laws and laws against discrimination, harassment, or retaliation, any other federal, state or local fair employment or whistle-blower statute, code or ordinance, common law (including New Jersey common law public policy claims, malicious prosecution and malicious use of process claims), contract law, tort, and any and all claims for attorneys' fees. The parties represent that they know of no claim that has not been released by this paragraph. Dr. Irving does not waive any rights he may have pursuant to N.J.S.A. 18A:16-6, or N.J.S.A. 18A:16-6.1, in the event of any claims brought by a third party against him, nor does the Board waive any defenses it may assert in the event Dr. Irving exercises his rights pursuant to N.J.S.A. 18A:16-6 or N.J.S.A. 18A:16-6.1. Dr. Irving does not waive any rights under the Workers' Compensation laws.

8. Compensation

a. Separation/Severance Payment

In consideration for Dr. Irving's agreement to the terms contained herein, and pursuant to N.J.A.C. 6A:23A-3.2(g), if Dr. Irving has not placed in another position by June 30, 2022, the Board shall pay Dr. Irving the sum of one hundred sixty-four thousand four hundred seventy-five (\$164,475) dollars (subject to all applicable taxes and withholdings). This sum represents the calculation of three (3) months' salary for every year remaining on Dr. Irving's Employment Contract. The calculation is as follows: nine months x monthly gross salary of eighteen thousand two hundred seventy-five (\$18,275.00) dollars. The Board shall pay this sum to Dr. Irving on or before August 1, 2022. Dr. Irving shall communicate with the Board's Business Office to ensure the correct tax withholding amounts.

b. COBRA Payments

If Dr. Irving has not placed in another position by June 30, 2022, the Board shall reimburse Dr. Irving for any payments Dr. Irving must make pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"). The Board's obligation pursuant to this Section 8(b) shall cease at the close of business on March 31, 2023, or when Dr. Irving places in a position that provides health benefits, whichever is earlier.

c. Payment for Unused Vacation Days

Whether or not Dr. Irving places in a position by June 30, 2022, upon Dr. Irving's separation from the Board, the Board shall pay Dr. Irving for his unused earned accumulated vacation days in accordance with Article IV (F)(1) of Dr. Irving's Employment Agreement, subject to the requirements of N.J.A.C. 6A:23A-3.2(g)(1). The per diem rate for each unsued vacation day shall be eight hundred forty-four (\$844.00) dollars. The Board shall make such payment, subject to applicable withholdings, to Dr. Irving on or before , 2022.

d. Other Employment

Should Dr. Irving accept a position on or prior to June 30, 2022 that provides Dr. Irving with a gross annual salary equal to or more than two hundred nineteen thousand three hundred (\$219,300.00) dollars, then the Board will not pay Dr. Irving any Separation/Severance Payment as set forth in section (a) of this Article 7.

Should Dr. Irving accept a position on or prior to June 30, 2022 that provides Dr. Irving with a gross annual salary less than two hundred nineteen thousand three hundred (\$219,300.00) dollars, then the Board will pay Dr. Irving the difference between his then-new salary and two hundred nineteen thousand three hundred (\$219,300) dollars, up to a maximum of one hundred sixty-four thousand four hundred seventy-five (\$164,475.00) dollars. The Board shall make this payment for the

2022-2023 school year only. After the Board's payment in this section for the 2022-2023 school year, the Board shall have no future financial obligations to Dr. Irving.

e. Early Termination Agreement

If the parties to this Agreement agree that effectuating part (a) of this Section F requires drafting an Early Termination Agreement, then the Board and Dr. Irving shall do all things necessary to collaboratively prepare this Agreement for approval by the Commissioner of Education. The parties also agree to do all things necessary to request an expedited review and approval by the Commissioner of Education in order to effectuate the terms of this Agreement.

9. Assent to Terms

The parties hereby acknowledge that they have entered into this Agreement with a full understanding of their rights and that they were fully informed of the implications of this Agreement by legal counsel, and they do so without duress of their own free will and volition.

10. Entire Agreement

This Agreement represents the entire understanding of the parties and may be modified only in a subsequent written instrument, duly executed by the parties. No other representations of any kind shall be binding upon the parties.

11. Severability

In the event that a court or agency of competent jurisdiction shall deem any part of this Agreement to be contrary to law, then the remaining portions of the Agreement shall remain in full force and effect.

12. Governing Law

This Agreement and all provisions hereof shall be governed by and construed under the laws of the State of New Jersey.

IN WITNESS WHEREOF, the signatures and/or seals of the parties or their
duly authorized representatives have been set forth on the dates indicated below:

CHRISTOPHER IRVING, ED.D. Date: _____

FOR THE BOARD OF EDUCATION OF THE TOWNSHIP OF TEANECK:

SEBASTIAN RODRIGUEZ, BOARD PRESIDENT

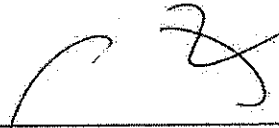
11. Severability

In the event that a court or agency of competent jurisdiction shall deem any part of this Agreement to be contrary to law, then the remaining portions of the Agreement shall remain in full force and effect.

12. Governing Law

This Agreement and all provisions hereof shall be governed by and construed under the laws of the State of New Jersey.

IN WITNESS WHEREOF, the signatures and/or seals of the parties or their duly authorized representatives have been set forth on the dates indicated below:



CHRISTOPHER IRVING, ED.D.

Date: 10/22/21

FOR THE BOARD OF EDUCATION OF THE TOWNSHIP OF TEANECK:

SEBASTIAN RODRIGUEZ, BOARD PRESIDENT

Date: _____