

**STATE OF HAWAII**  
**BOARD OF EDUCATION**  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

March 4, 2021

TO: Human Resources Committee

FROM: Dwight Takeno  
Committee Chairperson, Human Resources Committee

AGENDA ITEM: Committee Action on recommendation concerning new  
Superintendent Employment Contract

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**I. BACKGROUND**

The Board of Education (“Board”) appointed Christina Kishimoto as Superintendent of the Hawaii State Department of Education and entered into a three-year employment contract with her that commenced on August 1, 2017 and was set to expire on June 30, 2020, attached as **Exhibit A** (“Original Contract”). At a special meeting on December 21, 2018,<sup>1</sup> the Board voted in executive session on extending the Original Contract by one year, attached as **Exhibit B** (“Contract Extension”), so Superintendent Kishimoto’s employment contract is set to expire on July 31, 2021.<sup>2</sup>

Hawaii Revised Statutes (“HRS”) Section 302A-1101(b) authorizes the Board to appoint the superintendent for a term of up to four years.<sup>3</sup> Because the Original

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<sup>1</sup> December 21, 2018 minutes available at:

<https://alala1.k12.hi.us/STATE/BOE/Minutes.nsf/a15fa9df11029fd70a2565cb0065b6b7/283a4e3061612ebb0a25839400021f54?OpenDocument>

<sup>2</sup> The Board noted a procedural discrepancy at its December 21, 2018 special meeting and voted on the extension in public at its January 17, 2019 General Business Meeting. January 17, 2019 minutes available at:

<https://alala1.k12.hi.us/STATE/BOE/Minutes.nsf/a15fa9df11029fd70a2565cb0065b6b7/c6cf96ad543439e90a25839400755ed6?OpenDocument>

<sup>3</sup> Hawaii Revised Statutes Section 302A-1101(b), entitled “Department of education; board of education; superintendent of education,” provides, in pertinent part:

(b) The board shall appoint, and may remove, the superintendent by a majority vote of its members. The superintendent:

(1) May be appointed without regard to the state residency provisions of section 78-1(b);

(2) May be appointed for a term of up to four years; and

(3) May be terminated only for cause.

Contract and Contract Extension cover a four-year term, the Board needs to consider whether to offer Superintendent Kishimoto a new employment contract.

**II. RECOMMENDATION**

I recommend that the Committee consider whether to recommend that the Board offer Superintendent Christina Kishimoto a new employment contract.

**Exhibit A**  
**Original Contract**

EMPLOYMENT CONTRACT  
BETWEEN  
CHRISTINA KISHIMOTO AND  
STATE OF HAWAII BOARD OF EDUCATION

This employment Contract (hereinafter referred to as the "Contract") is hereby made and entered into this 17th day of May, 2017, by and between the STATE OF HAWAII BOARD OF EDUCATION (hereinafter referred to as the "Board"), and CHRISTINA KISHIMOTO (hereinafter referred to as "Superintendent").

WHEREAS, the Board is authorized to appoint the superintendent of the Department of Education of the State of Hawaii (hereinafter referred to as "Department") under Hawaii Revised Statutes ("HRS") §302A-1101(b); and

WHEREAS, the Board and the Superintendent believe that a written contract that describes specifically their relationship is desirable and will serve as the basis of effective communication between them as they fulfill their governance and administrative functions in the operation of the education program of the schools; and

WHEREAS, the Board desires to appoint CHRISTINA KISHIMOTO to serve as superintendent of the Department.

WHEREAS, CHRISTINA KISHIMOTO hereby accepts the appointment to serve as superintendent of the Department.

NOW, THEREFORE, the Board and Superintendent, for the consideration specified and acknowledged herein, hereby mutually agree as follows:

I. APPOINTMENT AND DURATION

The Board, in consideration of the promises of the Superintendent herein contained, hereby offers, and the Superintendent hereby accepts employment as superintendent of the Department, for a term commencing August 1, 2017, and ending June 30, 2020, unless sooner terminated as provided herein (hereinafter referred to as the "Term").

II. DUTIES AND RESPONSIBILITIES

The Superintendent agrees to devote her entire business time, attention, and energies to the business and interests of the Board and Department during the Term of her employment. Superintendent shall serve as and carry out the duties of Superintendent in accordance with the Hawaii State Constitution, the laws of this State and the policies of the Board and the rules and regulations of the Department. The duties and responsibilities of the Superintendent are set forth in the Position Description attached hereto and incorporated herein as **Exhibit A**. It is understood and agreed that the duties and responsibilities are subject to modification, supplementation, change or deletion by the Board, provided that written notice of same shall be promptly given to Superintendent.

### III. COMPENSATION

During the Term of Superintendent's appointment, she shall receive a base annual salary of TWO HUNDRED AND FORTY THOUSAND DOLLARS (\$240,000.00), payable in equal, semi-monthly installments.

The Superintendent's annual salary shall be subject to an annual review by the Board. Increases to the Superintendent's base annual salary, if any, shall be based on (a) performance; and (b) the Superintendent's annual evaluation, which should reflect the attainment of the goals and objectives set forth in the Board and Department's Joint Strategic Plan, both of which shall be determined by the Board in its sole discretion.

In addition to the base annual salary, the Superintendent shall be eligible for incentive payments. Incentive payments, if any, shall be based upon: (a) performance; and (b) the Superintendent's annual evaluation, which should reflect the attainment of the goals and objectives set forth in the Board and Department's Joint Strategic Plan, both of which shall be determined by the Board in its sole discretion. Incentive payments and the Superintendent's annual salary cannot exceed the salary rate provided for by law (HRS §26-52).

It is understood by and between the parties hereto that all compensation paid to the Superintendent by the Board shall be less all amounts required by law or authorized in writing by the Superintendent to be withheld or deducted.

### IV. BENEFITS

During her employment, the Superintendent shall be eligible to participate in and be covered by such State employee benefit plans and programs as provided by law, which are effective generally with respect to other State employees, to the extent the Superintendent is eligible under the terms of such plans and programs. This includes medical plan coverage, life insurance, retirement benefits, paid state holidays (between thirteen (13) to fourteen (14) days), twenty-one (21) vacation days and twenty-one (21) sick days per calendar year. In addition to the foregoing benefits, the Superintendent shall also receive the following individual benefits:

1. A reserved parking stall.
2. An automobile allowance in the amount of THREE HUNDRED AND TWENTY-SIX DOLLARS (\$326.00) per month.

The Board may approve other benefits, provided such benefits are permissible and not in contravention of any law.

### V. EVALUATION

The parties recognize that the Board has the right to evaluate and assess Superintendent's performance on an informal and continuous basis. In addition, at least annually, there shall be a formal evaluation by the Board of Superintendent's performance. Superintendent's performance in pursuing and attaining such goals and objectives shall be considered as part of her evaluation by the Board. The

Superintendent shall be provided a reasonable opportunity to respond to any evaluation or assessment by the Board.

At the request of either party, the parties shall meet to establish and review goals and objectives for the Superintendent's evaluation. The Superintendent's goals and objectives should be in alignment with and support the Board and Department's Joint Strategic Plan.

#### VI. TERMINATION OF CONTRACT

Notwithstanding any other provision of this Contract, Superintendent's employment under this contract may be terminated as follows:

1. At any time, by mutual agreement of the parties.
2. By the Superintendent, by tendering written notice to the Board of her resignation from office. The Superintendent shall provide to the Board a minimum of thirty (30) calendar days notice prior to the effective date of the resignation.
3. Whenever the Superintendent is not qualified (legally, physically, mentally, or otherwise) to perform the essential functions of her job with or without reasonable accommodation.
4. Upon the death of the Superintendent.
5. By the Board, without cause, by tendering written notice to the Superintendent of her termination.
6. Upon reasonable determination by the Board, based upon the facts made known to it at the time, that there is cause to terminate the Superintendent pursuant to HRS §302A-1101 and as provided in this Contract.

In the event of any termination by the Board, either with or without cause, the Superintendent will be provided a minimum of 30 calendar days notice. Superintendent shall have the opportunity, during the 30-day notice period, to appear before the Board to discuss her termination. It is understood and agreed by and between the parties that the Superintendent's request for and appearance before the Board shall not extend the effective date of her termination.

Under any circumstances, unless agreed otherwise, salary earned and accrual of benefits ceases on Superintendent's last day of employment, however, if the Superintendent's employment is terminated at the election of the Board, without cause, the Superintendent shall also be paid either a lump sum equivalent of her salary for: (1) the remainder of the Term of this Contract, not to exceed one year, or (2) the remainder of the Term of this Contract, whichever is shorter. This will constitute final settlement of this Contract.

## VII. TERMINATION OF CONTRACT FOR CAUSE

The parties agree that term "cause" shall be as determined under applicable law. The parties further agree that the following situations may, without limitation, constitute "cause" sufficient to justify the termination of the Superintendent from office:

1. Failure to execute the duties and responsibilities of the office.
2. Failure to attain the goals and objectives of the Board and Department.
3. Failure to apprise the Board in a timely manner of any circumstances having a material impact on the Board or Department.
4. An overall unsatisfactory evaluation rating by the Board.
5. Conviction of a felony or other dereliction of duty that reflects adversely on the Department and the Board.
6. Determination that the Superintendent is unsuitable to work in close proximity to children, as provided by Hawaii Administrative Rules, Title 8, Chapter 7.
7. Personal misconduct that would bring into disrepute the position of superintendent, the Department, or the Board.

## VIII. WAIVER OF BREACH

The waiver by the Board of any breach of a provision of this Contract shall not operate or be construed as a waiver of any further or subsequent breach by the Superintendent.

## IX. MODIFICATION

This Contract shall not be modified or extended except by written agreement signed by both parties. The Superintendent understands that any modification or extension to this Contract can only be authorized through the official approval of the Board, as evidenced by a majority vote of its members.

## X. APPLICABLE LAW

This Contract shall be construed, interpreted, and enforced in accordance with the laws of the State of Hawaii.

## XI. ARBITRATION

If a dispute arising under this Contract has not been satisfactorily resolved, either party may present the other with a written request for arbitration.

1. The Board and Superintendent shall immediately attempt to select an arbitrator. If the parties have not appointed an arbitrator within two (2) weeks from the receipt of the request for arbitration, the parties will request from the Hawaii Labor Relations Board a list of five (5) names from the register of arbitrators. The arbitrator shall be chosen by the parties by alternately striking one (1) name at a

time from the list. The first party to scratch a name shall be determined by lot. The arbitrator whose name remains on the list shall serve for that case. By mutual agreement, the parties may select a permanent umpire to serve on all cases.

The arbitration hearing shall commence within forty-five (45) days from the Superintendent's official notification to the Board that the case is going to arbitration. The parties may mutually agree to a written waiver of the timelines. The arbitrator(s) to be selected must agree to the schedule.

In making a decision on a case, the arbitrator shall not have the authority to consider any facts not in evidence, nor shall the arbitrator add to, subtract from, delete, or in any way amend or modify any term or condition of the Contract. The arbitrator's decision shall be in writing and shall contain the rationale supporting the decision. The decision will be final and binding on the parties.

2. The voluntary labor arbitration rules of the American Arbitration Association as amended and in effect during the life of this Contract shall apply to the proceedings except as otherwise provided herein or as otherwise amended by mutual agreement.
3. The arbitration shall comply with the American Arbitration Association time limits unless the parties agree in writing to a waiver. The waiver shall not extend the timelines beyond six (6) months. If there are extraordinary circumstances, the arbitrator may request a waiver. This provision shall be provided to the arbitrator before his agreement to arbitrate.
4. The fees and expenses of the arbitrator shall be shared equally by the Board and the Superintendent, including the cost of the arbitrator's transcript if one is requested by the arbitrator. Each party will pay the cost of presenting its own case.
5. If the Board disputes the arbitrability of any grievance submitted to arbitration, the arbitrator shall first determine the question of arbitrability. If the arbitrator finds that it is not arbitrable, the grievance shall be referred back to the parties without decision or recommendation on its merits.

When the arbitrator finds that any action was improper, the action may be set aside, reduced or otherwise modified by the arbitrator. The arbitrator may award back pay to compensate the Superintendent wholly or partially for any salary lost. Such back pay award shall be offset by all other compensation received by the Superintendent including but not limited to unemployment compensation or wages.

## XII. SEVERABILITY

If a term or provision of this Contract is determined to be illegal, invalid, inoperative, or unenforceable, the remainder of this Contract shall not be affected by such a ruling but shall remain in force and effect without the illegal, invalid, inoperative, or unenforceable term or provision.



XIII. ENTIRE AGREEMENT

This Contract constitutes the entire agreement between the parties and supersedes all prior agreements and understandings, whether written or oral, relating to the subject matter of this Contract.

XIV. COUNTERPARTS

This Contract may be executed by the parties in counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same instrument. Any signature delivered via facsimile or other electronic means shall be deemed an original signature hereto.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, Superintendent and the Board, through its duly authorized officer, have executed this Contract on the date and year first written above.

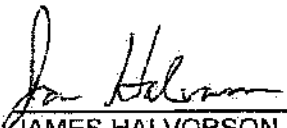
SUPERINTENDENT

\_\_\_\_\_  
CHRISTINA KISHIMOTO

HAWAII STATE BOARD OF EDUCATION  
By its Chairperson

  
\_\_\_\_\_  
LANCE A. MIZUMOTO

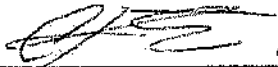
APPROVED AS TO FORM:

  
\_\_\_\_\_  
JAMES HALVORSON  
Deputy Attorney General

This Contract was approved by the Board of Education, through a majority vote of its members, at a meeting held on 11th day of May, 2017.

IN WITNESS WHEREOF, Superintendent and the Board, through its duly authorized officer, have executed this Contract on the date and year first written above.

SUPERINTENDENT

 05-17-17  
\_\_\_\_\_  
CHRISTINA KISHIMOTO

HAWAII STATE BOARD OF EDUCATION  
By its Chairperson

\_\_\_\_\_  
LANCE A. MIZUMOTO

APPROVED AS TO FORM:

\_\_\_\_\_  
JAMES HALVORSON  
Deputy Attorney General

This Contract was approved by the Board of Education, through a majority vote of its members, at a meeting held on 11th day of May, 2017.

**Exhibit A**  
Job Description

**State of Hawaii Department of Education  
POSITION DESCRIPTION - SUPERINTENDENT**

**Position Summary**

The Superintendent of the State of Hawaii's Department of Education ("Department") serves as the chief executive officer of the statewide public school system, with responsibility for both the State Education Agency ("SEA") and Local Education Agency ("LEA") roles for 256 schools (15 complex areas) on six islands, over 175,000 students, approximately 22,300 permanent employees, and approximately 13,500 casual hires and substitute employees, and an annual operating budget in excess of \$1.9 billion. Reporting to the State Board of Education ("Board"), the Superintendent is accountable for achieving the Department's goals as set out in the Department and Board's joint strategic plan.

**Position Qualifications and Competencies**

**Education.** Master's degree from an accredited college or university in education, business, or public administration, or a closely related field. Alternatives to these education qualifications may be allowed as the Board may find appropriate and acceptable.

**Experience.** Minimum of 5 years in progressively increasing leadership roles in public or business administration working with multi-year strategic planning and budgeting. At least five years shall have been in an executive capacity leading a diverse senior team in a large multi-geographic organization, and at least three shall have been in an educational environment.

**Competencies.**

- Demonstrated success in collaboratively building, nurturing, and sustaining an organizational culture which supports a school system that serves all students and educational equity, develops a climate that fosters innovative continuous improvement, and promotes collaboration, trust, and high expectations.
- Understanding of complex organizations and how to produce successful change management efforts and educational reform.
- Deep understanding of Hawaii's culture and values and demonstrated ability to incorporate them into leadership decisions, actions, and style.
- Ability to effectively communicate to diverse audiences to achieve desired results and practices strong two-way communication skills.
- Demonstrated ability to advocate for and effectively represent the Department's position on legislative initiatives and work effectively with state and federal political leaders and public officials.
- Understands and responds appropriately to news media.

**Primary Responsibilities**

- Works with the governor, Board, and key stakeholders to ensure the efforts of the Department are aligned with the goals of the joint strategic plan.
- Formulates, prioritizes, and deploys appropriate strategies, change efforts, action plans, and key performance indicators to achieve the goals of the joint strategic plan; regularly

communicates and reports on the progress of the goals of the joint strategic plan to the Board and other key stakeholders.

- Attracts, leads, builds, and retains a strong leadership team which drives achievement of the goals of the joint strategic plan.
- Defines the State accountability system and selects and administers statewide assessments aligned with State standards. Ensures data systems for the inputs and outputs of the education system support a focus on achievement, equity, and progress, and are broadly available.
- Champions the importance and execution of a diverse, equitable, and inclusive environment in schools.
- Oversees the administration of state and federal funds and programs; ensures allocation of funds, programs and resources align with joint strategic plan and direction from the Board. Ensures the preparation, transparency, and fiscal management of the Department's budget and advocates funding to achieve the vision and goals of the joint strategic plan.
- Promotes standards and statewide programs that continuously incent and improve teacher quality.
- Develops and maintains working relationships with key stakeholder groups, related state agencies (such as the Department of Health and Department of Human Services), federal agencies, state and federal political leaders and other public officials, and serves as the primary contact for such individuals and agencies.
- Cultivates and maintains learning relationships with national education leaders, evaluates new strategies and innovations, and implements best practices and necessary system changes.
- Ensures the Department has processes and systems in place for the internal organization, operation, and management of the public school system, including a proactive 2-way communication plan and process, which address both internal and external stakeholders, as well as safety, disaster recovery, and business continuity plans to effectively respond to emergency situations.
- Ensures compliance with all applicable state and federal laws, including those that recognize both of Hawaii's official languages, and any Board, state, and federal policy and regulations governing education.
- Serves as Department's Chief Procurement Officer and ensures appropriate financial controls are in place.
- Approves the appointment of all Educational Officers, hires and seeks Board approval for all Department executives, makes final decisions on actions where serious disciplinary action is contemplated for an employee, and engages in labor negotiations.
- Exercises administrative oversight of attached agencies.

**Exhibit B**  
**Contract Extension**

EXTENSION OF  
EMPLOYMENT CONTRACT  
BETWEEN  
CHRISTINA KISHIMOTO AND  
STATE OF HAWAII BOARD OF EDUCATION

This extension of the employment contract between Christina Kishimoto and State of Hawaii Board of Education (hereinafter referred to as the "Extension") is hereby made and entered into this 21 day of December, 2018, by and between the STATE OF HAWAII BOARD OF EDUCATION (hereinafter referred to as the "Board"), and CHRISTINA KISHIMOTO (hereinafter referred to as "Superintendent").

WHEREAS, the Board and the Superintendent entered into an employment contract on May 17, 2017 (hereinafter referred to as the "Employment Contract"); and

WHEREAS, the Board desires to extend the term of the Employment Contract to the full four year term as allowed by Hawaii Revised Statutes Section 302A-1101(b); and

WHEREAS, Christina Kishimoto also desires to extend the term of the Employment Contract; and

NOW, THEREFORE, the Board and Superintendent, for the consideration specified and acknowledged herein, hereby mutually agree as follows:

The term of the Employment Contract will be changed from "commencing August 1, 2017, and ending June 30, 2020" to "commencing August 1, 2017 and ending July 31, 2021."

IN WITNESS WHEREOF, Superintendent and the Board, through its duly authorized officer, have executed this Contract on the date and year first written above.

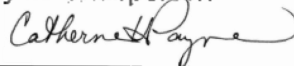
SUPERINTENDENT



CHRISTINA KISHIMOTO

HAWAII STATE BOARD OF EDUCATION

By its Chairperson



CATHERINE PAYNE

APPROVED AS TO FORM:



JAMES HALVORSON

Deputy Attorney General

This Extension of Employment Contract was approved by the Board of Education, through a majority vote of its members, at a meeting held on the 21st day of December, 2018.