

BASE LANGUAGE FOR SPECIAL ED DIRECTOR CONTRACT
TERM CONTRACT FORMAT
Prepared for MASA and MASE Members (August 2006)

Important Notes Regarding This Base Language:

- 1) The base contract language in this document should only be used in limited circumstances. While Special Ed Director contracts will ordinarily reflect the Special Ed Director's continuing contract rights under Section 122A.40 of Minnesota Statutes, the language in this document is available for situations in which a Special Ed Director wants to voluntarily **waive his/her continuing contract rights**. A separate document contains base language that would reflect continuing contract status.
- 2) The base language in this document is designed to reflect the provisions that would generally be desirable for a Minnesota Special Education Director who intends to enter a term contract (thereby waiving his/her continuing contract rights). It is important to keep in mind, however, that each employment situation is unique. Each Special Ed Director should consider what modification of this base language is appropriate for his/her *unique* circumstances. MASA and MASE members are encouraged to contact MASA's Executive Director, and may want to consult with legal counsel, before entering into an employment contract.
- 3) The base language in this document is designed for a Special Ed Director's individual contract with a district, rather than a situation in which the Special Ed Director is covered by a master agreement between the district and a group of employees.

The School Board of Independent School District No. ____, _____, Minnesota ("District") enters into this agreement with _____ ("Special Education Director"), a licensed director of special education, who agrees to perform the duties of Special Education Director of the District.

The District and the Special Education Director agree as follows:

I. Basic Services:

The Special Education Director shall faithfully perform the services prescribed by the District or its designated representative or in an applicable job description, and abide by the rules, regulations, and policies established by the District.

II. Licensure:

Consistent with Rule 3512.4000, subpart 1, of the Minnesota Administrative Code, the Special Education Director shall furnish throughout the life of this contract a valid license to act as a director of special education in the State of Minnesota.

III. Duration, Extension, Expiration, Termination, and Mutual Consent:

1. Duration.

This contract is for a term of __ years, commencing July 1, 20__ and ending June 30, 20__. It shall remain in full force and effect unless it is terminated as provided herein, or unless it is terminated or modified in

writing by mutual consent of the District and the Special Education Director.

2. Extension.

On or before December 15 of the final year of the contract term, or any extension thereof, the School Board will take action regarding extension of the contract term and will give the Special Education Director written notice of its intent regarding extension. If the School Board does not act and give notice before this six-month deadline that it does not intend to extend the contract term, the contract term will automatically be extended for an additional year, and from year to year thereafter, unless and until the School Board acts and gives proper notice. Timely notice of the School Board's intent to not extend the contract term will result in termination of the contract effective on the subsequent June 30 or on June 30 of the final year of the contract term, whichever is later.

3. Expiration.

This contract shall expire at the end of the term specified in Section 1 hereof, unless it is extended as provided in Section 2. At the conclusion of its term, neither party shall have any further claim against the other, and the District's employment of the Special Education Director shall cease.

4. Termination During the Term.

Subdivisions 9 and 13 of Section 122A.40 of Minnesota Statutes are hereby incorporated in their entirety. Therefore, the Special Education Director's employment may be terminated during the term of this contract only for cause as defined in the applicable subdivision. If the District proposes to terminate the Special Education Director's contract for cause as defined in subdivision 9 of Section 122A.40, the contract must not be terminated unless the Special Education Director has failed to correct the charged deficiency after being given written notice of the specific items of complaint and reasonable time within which to remedy them. If the District proposes to terminate the Special Education Director's employment for cause as defined in subdivision 13 of Section 122A.40, the District must first notify the Special Education Director in writing of the proposed grounds for termination.

If the District proposes to terminate the Special Education Director's contract for cause pursuant to either subdivision 9 or 13 of Section 122A.40, the Special Education Director shall be entitled to a hearing before an arbitrator provided the Special Education Director makes such a request in writing within fifteen (15) calendar days after receipt of the

written notice of the proposed termination.¹ In such event, the parties shall jointly petition the Bureau of Mediation Services (BMS) for a list of five (5) arbitrators. The arbitrator shall be selected by the parties through the normal striking process as provided by BMS rules. The arbitrator shall conduct a hearing under normal arbitration procedure rules and issue a written decision. The decision of the arbitrator shall be final and binding upon the parties, subject to normal judicial review of arbitration decisions as provided by law. The Special Education Director may be suspended with pay pending final determination by the arbitrator.

If the Special Education Director fails to request a hearing before an arbitrator within the fifteen (15) calendar day period, it shall be deemed acquiescence by the Special Education Director to the District's proposed action and the proposed action shall become final on such date as determined by the District, and the Special Education Director shall have no further claim or recourse.

5. Mutual Consent: This contract may be terminated at any time by written mutual consent of the parties.

IV. Duty Year and Leaves:

1. Basic Work Year.

The Special Education Director's duty year shall be for each of the entire 12-month contract years as provided herein. The Special Education Director shall perform services on all days Monday through Friday except approved legal or District holidays. The Special Education Director shall be on duty during any emergency unless otherwise excused in accordance with applicable District policy. For purposes of calculating the Special Education Director's daily rate of pay, the number of duty days each year shall be ___ days.

2. Vacation.

The Special Education Director shall earn ___ days of paid vacation each contract year, credited in full as on July 1st of each contract year. Upon termination of employment, the Special Education Director shall be entitled to payment, at the Special Education Directors' then-existing daily rate of pay, for any unused accumulated vacation days.

¹ This provision in which the parties would agree to arbitrate a dispute regarding termination of the contract can be omitted in favor of a provision that would provide for a civil court action as the forum for dispute resolution.

3. Holidays.

The Special Education Director shall be entitled to _____ paid holidays each contract year as designated by the School Board.

4. Sick Leave.

The Special Education Director shall earn paid sick leave at the rate of ___ days each contract year, credited in full as of July 1st of each contract year. Upon termination of employment, the Special Education Director shall be entitled to payment, at the Special Education Directors' then-existing daily rate of pay, for any unused accumulated sick leave.

5. Emergency Leave.

The Special Education Director may be granted paid emergency leave at the discretion of the School Board.

6. Bereavement Leave.

The Special Education Director shall be granted bereavement leave for a death within the Special Education Director's immediate or close family. The time shall be utilized in a reasonable amount and shall be determined after conferring with the School Board Chair. Days utilized will not be deducted from sick leave.

7. Disability.

If the Special Education Director is unable to perform regular duties because of personal illness or disability and has exhausted all accumulated sick leave, the District shall provide additional paid sick leave at a salary equal to _____ percent of the Special Education Director's regular salary until the expiration of the waiting period for long term disability insurance.

8. Medical Leave.

a. The Special Education Director and the District agree to incorporate by reference and be bound by the provisions of Section 122A.40, Subd. 12, of Minnesota Statutes, relating to suspension and leave of absence for health reasons.

b. If the Special Education Director is unable to perform regular duties because of personal illness or disability and has exhausted all sick leave credit available or has become eligible for long term disability compensation and has not been suspended or placed on leave of absence pursuant to Section 122A.40, Subd. 12, the Special Education Director shall, upon request, be granted a

medical leave of absence up to one year in duration. The School Board may, in its discretion, extend such a leave upon written request. A request for medical leave of absence or extension thereof pursuant to this section shall be accompanied by a written statement from a physician outlining the condition of health and estimated time at which the Special Education Director is expected to be able to resume normal responsibilities. The Special Education Director, when on medical leave of absence, is eligible to continue to participate in group insurance programs as permitted under the insurance policy provisions, but the Special Education Director shall pay the entire premium for such programs as the Special Education Director wishes to retain commencing with the beginning of the leave. If medical leave of at least one full year is granted pursuant to this section, the Special Education Director voluntarily waives any right to a leave of absence to which the Special Education Director might otherwise be entitled pursuant to Section 122A.40, Subd. 12.

V. Insurance:

1. Health, Hospitalization, and Dental.

The District shall provide the Special Education Director and the Special Education Director's dependents with health and hospitalization and dental insurance coverage under the District's Groups plans, at the expense of the District.

2. Life Insurance.

The District shall provide a group term life insurance plan providing \$_____ of coverage for the Special Education Director, payable to the Special Education Director's named beneficiary, at the expense of the District.

3. Short and Long Term Disability Insurance.

The District shall provide, at the District's expense, short and long term disability coverage for the Special Education Director in the District's group plans.

4. Liability Insurance.

The District shall provide, at District expense, liability insurance naming the Special Education Director as an insured, along with the District, in an amount not less than that which is required by law for the District.

5. Insurance Policies Govern.

The eligibility of the Special Education Director, or the Special Education Director's dependents or beneficiary, for insurance benefits shall be governed by the terms of the insurance policies purchased by the District pursuant to this section. It is understood that the District's only obligation is to purchase the insurance policies described herein, and no claim shall be made against the District as a result of denial by an insurer of insurance benefits if the District has purchased the policies and paid the premiums described herein.

VI. Other Benefits:

1. Retirement Plans.

The Special Education Director will be eligible to participate in all retirement plans permitted by law, including but not limited to a tax sheltered annuity plan through payroll deduction established pursuant to Section 403 (b) of the Internal Revenue Code of 1986, Minnesota Statutes, Section 123B.02, Subd. 15, and District policy and as otherwise provided by law. The District shall pay the employer match at the statutory maximum amount.

2. Conferences and Meetings.

The District shall pay all legally valid expenses and fees for the Special Education Director's attendance at professional conferences and meetings with other educational agencies when attendance thereof is required, directed, or permitted by the School Board. The Special Education Director shall periodically report to the School Board relative to all meetings and conferences attended. The Special Education Director shall file itemized expense statements to be processed and approved as provided by law.

3. Dues.

The Special Education Director is encouraged to belong to appropriate professional educational and civic organizations where such membership will serve the best interests of the District. Accordingly, the District will pay such membership dues for organizations as are required, directed, or permitted, by the School Board. The Special Education Director shall present appropriate statements for approval as provided by law.

VII. Salary:

The Special Education Director shall be paid an annual salary of \$____,____ for the 20__ - 20__ school year. The parties shall try to agree by April 1 of each year on

the amount of the salary for the following contract year. The annual salary may be modified, but shall not be reduced. The salary shall be paid in __ equal installments during the contract year.

VIII. Payment and Continuation of Benefits Upon Termination of Employment

Upon conclusion of the Special Education Director's employment for any reason, the District shall pay the Special Education Director or the Special Education Director's named beneficiary(ies) _____,² and the District shall provide the Special Education Director and the Special Education Director's dependents with health and hospitalization and dental insurance coverage under the District's Groups plans, at the expense of the District, for the period of _____.

IX. Indemnification and Provision of Counsel.

In the event that an action is brought or a claim is made against the Special Education Director arising out of or in connection with the Special Education Director's employment, and the Special Education Director is acting within the scope of employment or official duties, the District shall defend and indemnify to the extent permitted by law. Indemnification, as provided in this section, shall not apply in the case of malfeasance in office or willful or wanton neglect of duty, and the obligation of the District shall be subject to the limitations as provided in Minnesota Statutes, Chapter 466.

X. Severability

If any provision of this contract is held to be invalid by operation of law, the remainder of the contract shall not be affected thereby and shall remain in full force and effect.

² It is important to note that, under Section 465.722 of Minnesota Statutes, severance pay is restricted for "highly compensated employees." A highly compensated employee is an employee with estimated annual wages that are greater than 60 percent of the governor's annual salary and equal to or greater than 80 percent of the estimated annual wages of the second highest paid employee of the district. Severance pay for such employees is ordinarily limited to an amount equivalent to six months of wages. Payments for unused accumulated vacation and unused accumulated sick leave do not count toward this six-month cap.

This contract shall be effective only upon signatures of the Special Education Director and of the officers of the School Board after authorization for such signatures by the officers is given by the School Board in appropriate action recorded in its minutes.

IN WITNESS WHEREOF, I have
subscribed my signature this
____ day of _____, 20__.

Special Education Director

IN WITNESS WHEREOF, I have
subscribed my signature this
____ day of _____, 20__.

Chair

Clerk