

Spenser,

Thank you for the comprehensive and prompt reply.

Thanks again,

Darren Vaughn

[208-631-4203](tel:208-631-4203)

From: Spencer Lewis <slewis@osba.org>

Sent: [Tuesday, November 12, 2019 1:36 PM](#)

To: Darren Vaughn <dkvaughn@live.com>

Cc: dvaughn@rsd.k12.or.us <dvaughn@rsd.k12.or.us>

Subject: RE: Superintendent contract renewal

Good Afternoon Darren,

Please find my responses below in red. Let us know if you have any additional questions.

Spencer Lewis

(he/him/his)

Senior Assistant Legal Counsel

Oregon School Boards Association

www.osba.org

Phone: [503-485-4800](tel:503-485-4800) | Fax [503-588-2813](tel:503-588-2813)

[1-800-578-6722](tel:1-800-578-6722)

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From: Darren Vaughn <dkvaughn@live.com>
Sent: [Tuesday, November 12, 2019 8:36 AM](#)
To: Spencer Lewis <slewis@osba.org>

Cc: dvaughn@rsd.k12.or.us

Subject: Re: Superintendent contract renewal

Hi Spenser,

In continuing the discussion about how we handle superintendent contract, our board has developed some questions that we hope will help us with future actions on our contract with our superintendent. Below is a brief history of what has happened with out superintendent's contract as context for the questions:

- In 2014 our board approved and issued a 2014-17 contract with the RSD superintendent.
- In March of 2015 the staff renewal list was approved with the superintendent's name on it.
- There was no subsequent request from the superintendent or the board to modify, revise or reissue the 2014-17 contract.

- In February of 2016 the staff renewal list was approved with the superintendent's name on it.
 - There was no subsequent request from the superintendent or the board to modify, revise or reissue the 2014-17 contract.
- In April of 2017 agenda item “Superintendent’s Contract” was discussed and a committee was formed to review/negotiate the superintendent’s contract.
 - The superintendent's 2014-17 contract was reviewed, negotiated, revised and presented to the board as a proposed 2017-2020 contract.
 - In June of 2017, the superintendent's 2017-2020 contract was approved at a regular meeting.

- In March of 2018 the staff renewal list was approved with the superintendent's name on it.
 - There was no subsequent request from the superintendent or the board to modify, revise or reissue the 2017-20 contract.
- In March of 2019 the board removed the superintendent's name from the staff renewal list for separate vote.
 - The superintendent's was not renewed by a 4-2 vote.

As you can see, past district practice has not been the revision or issuance of a new contract after approval of a renewal list with the superintendent's name on it.

The questions from our board are:

- 1. What effect does it have on a superintendent's contract when his/her**

name is on a staff renewal list that is approved by the board?

This may depend on the specific language used and the intent of the parties, but I would say that a renewal resets the contract to the beginning of the term of the contract (when done in the first year of a contract, essentially adds one year to the contract). When we talk about licensed teachers, a renewal places them back in the first year of a two-year contract. Since the superintendent renewals were on the same list as the teacher renewals, there is a strong argument that the superintendent renewal similarly placed the superintendent in the first year of a three-year contract.

Based on this information, I would consider that March 2018 renewal of the superintendent's contract to place the superintendent in the first year of a new three-year contract, a 2018 – 2021 contract.

You could argue something else, but I think you would have a difficult time explaining what the March 2018 action did, if it did not extend the contract duration. One of those arguments would

be that the renewal action by the board was an offer to the superintendent, and the superintendent must take some type of action in order for the offer to be accepted—I think this would be difficult to win on as his continued work may be acceptance and there is not a past practice of requiring superintendent action to keep the option available.

2. What is the effect of no contract action being asked for/taken after the renewal of the superintendent on the staff renewal list?

If a contract is renewed, there really should be an updated contract with signatures, however, the law doesn't necessarily require that. If a contract is renewed, it alters the termination date of the contract. If no contract action is taken after the renewal, the terms of the renewed contract would continue on for the duration of the contract.

3. What effect did it have on the superintendent's contract in March of 2019 when the board chose to NOT renew him?

I believe that the renewal of the contract in March 2018 reset the contract to the first year of a three-year contract or essentially created a new contract ([2018-2021](#)). When the board chose not to renew the superintendent in March 2019, the board did not terminate the contract, rather chose not to change any of its terms (or extend it in any way). That 2018-2021 contract remains in effect under the terms established in March 2018 (since no new terms were discussed, I would say that all terms of the contract remained the same, with the exception of the beginning and ending dates).

I have attached a copy of the superintendent's 2017-20 contract for reference. The 2017-20 contract is the latest executed contract that exists. We are looking for the proper path forward to clean this up and establish a amicable/correct way of handing this contract. Your answers to these three questions will help us move forward to address our superintendent's request for a 2018-21 contract to be issued based on the 2018 renewal list approval.

Thank you in advance,

Darren Vaughn

RSD #13 School Board Chair

[208-631-4203](tel:208-631-4203)

From: Spencer Lewis <slewis@osba.org>

Sent: [Tuesday, February 12, 2019 12:22 PM](#)

To: dkvaughn@live.com <dkvaughn@live.com>

Subject: Superintendent contract renewal

Good Afternoon Darren,

Thanks for the call this morning. This is why I believe that ORS 342.845 does not apply to superintendents, and why ORS 342.513 does:

ORS 342.815 defines administrators to “include[] any teacher the majority of whose employed time is devoted to service as a supervisor, principal, vice principal or director of a department... but shall not include the superintendent...” These definitions apply to ORS 342.805 to 342.937. Additionally, a teacher is defined as “any person who holds a teaching license or registration as provided in ORS 342.125 or 342.144 or who is otherwise authorized to teach in the public

schools of this state and who is employed half-time or more as an instructor or administrator.” A “contract teacher” is also defined, and requires that you meet the definition of a teacher.

Since ORS 342.845 applies to contract teachers and administrators and is within ORS 342.805-.937, these definitions apply. Consequently, 342.845 does not apply to superintendents.

A different set of definitions applies to other parts of ORS 342. ORS 342.120 defines “administrator” as including superintendents. This definition applies to ORS 342.513, which requires that written notice of renewal or nonrenewal be provided to all teachers or administrators “for the following school year by March 15 of each year.” Consequently, this requirement applies to administrators.

In addition to these laws, ORS 332 also discusses superintendent contracts and renewals:



I would also be careful with executive sessions for the superintendent's contract. I do not know what was discussed in your executive session, you just mentioned that you had one for superintendent contract negotiations (I may have misheard). There is no executive session provision that allows superintendent contracts to be reviewed, discussed or negotiated in executive session. If the board is considering terminating the superintendent, that can be done in executive session, but requires advanced notice (24 hours or one business day, whichever is greater, ORS [1920660\(2\)](#)(b)) to the superintendent ahead of time. The board can also use executive session to evaluate the superintendent, subject to the same notice requirements (ORS 192.660(2)(i)). However, neither of these authorizes contract negotiations be done executive session. Again, I am not saying that you did anything wrong, I wasn't there

and don't know what was discussed, just a word of caution.

Please let us know if you have any additional questions.

Spencer Lewis

Member Services Attorney

Oregon School Boards Association

www.osba.org

Phone: [503-588-2800](tel:503-588-2800) | Fax [503-588-2813](tel:503-588-2813)

[1-800-578-6722](tel:1-800-578-6722)