

**MONTGOMERY COUNTY PUBLIC SCHOOLS  
DEFERRED COMPENSATION PLAN**

Amendment and Restatement  
Effective as of January 1, 2009

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**ARTICLE I**

**INTRODUCTION AND PURPOSE OF PLAN**

**1.1 ESTABLISHMENT OF PLAN.**

This amendment and restatement of the Montgomery County Public Schools Deferred Compensation Plan (the "Plan") is effective as of January 1, 2009.

**1.2 PURPOSE OF PLAN.**

The purpose of this Plan is to enable Employees who become covered under the Plan to enhance their retirement security by permitting them to enter into agreements with the Employer to defer a portion of their Compensation and receive benefits at retirement, death, or other severance from employment, or in the event of financial hardship due to an unforeseeable emergency. Participation in this Plan shall not be construed to establish or create an employment contract between the Employee and the Employer.

## ARTICLE II

### DEFINITIONS

Whenever used in the Plan, the following capitalized terms shall have the meanings as set forth in this Article unless a different meaning is clearly required by the context.

**2.1 ADMINISTRATOR** means the Superintendent or any person designated by the Superintendent for any or all purposes under the Plan.

**2.2 BENEFICIARY** means the person, persons, or legal entity entitled to receive benefits under this Plan which become payable if a Participant dies.

**2.3 CODE** means the Internal Revenue Code of 1986, as amended, and any regulations thereunder.

**2.4 COMPENSATION** means the total amount of remuneration earned by an Employee for personal services rendered to the Employer for the calendar year including amounts deferred under this Plan and any other deferred compensation plan. To the extent required by a collective bargaining agreement, Compensation shall include amounts payable for accumulated sick and vacation pay.

**2.5 DEFERRAL** means (i) the annual amount of Compensation that a Participant elects to defer pursuant to a properly executed Voluntary Salary Deferral Agreement and (ii) any amount that the Employer contributes on any Participant's behalf, as determined by the Employer in its sole discretion.

**2.6 DEFERRED COMPENSATION ACCOUNT** means the account established and maintained on behalf of a Participant as provided in Section 7.3.

**2.7 ELIGIBLE EMPLOYEE** means any person who performs services for the Employer, is classified by the Employer as an "employee" and receives Compensation from the Employer. Elected or appointed members of the Board of Education shall also be Eligible Employees during their tenure as such.

**2.8 EMPLOYER** means the Board of Education of Montgomery County.

**2.9 INCLUDABLE COMPENSATION** means compensation for services performed for the Employer determined without reduction by reason of (i) Deferrals under this Plan or any other plan subject to Code section 457(b), (ii) any salary deferral agreement pursuant to Code section 403(b), as defined in Code section 457(e)(5) or (iii) any elections made under Code section 125.

**2.10 INVESTMENT OPTIONS** means (i) shares of open-end, regulated investment companies registered under the Investment Company Act of 1940, (ii) interests of common trust funds or collective investment funds qualified under sections 401 and 501 of the Code, (iii) annuity contracts, and (iv) bonds and equity securities actively traded on the New York Stock Exchange, American Stock Exchange or the Nasdaq National Market.

**2.11 INVESTMENT SPONSOR** means any insurance company, regulated investment company, or other entity that the Employer allows to provide Investment Options under the Plan.

**2.12 PARTICIPANT** means an Employee or former Employee who has been enrolled in this Plan and who retains the rights to benefits under the Plan.

**2.13 PLAN** means the Montgomery County Public Schools Deferred Compensation Plan as it may be amended from time to time.

**2.14 PLAN YEAR** means the twelve (12) consecutive month period beginning each January 1 and ending the following December 31.

**2.15 RECORDKEEPING AGREEMENT** means the agreement by and between the Employer and any recordkeeper appointed by the Employer.

**2.16 REQUIRED BEGINNING DATE** means the date by which distributions are required to begin, as defined in Section 5.1.

**2.17 SEVERANCE FROM EMPLOYMENT** means the severance of a Participant's employment with the Employer including retirement, termination and death. Any Participant who is granted a leave of absence by the Employer will not be treated as incurring a Severance from Employment as long as the leave of absence is approved by the Employer. If an approved leave of absence is terminated by the Employer or Employee without the resumption of the employment relationship, the Participant shall be treated as incurring a Severance from Employment under this Plan as of the date of termination of such leave. With respect to a person who is an Eligible Employee by virtue of serving as an elected or appointed member of the Board of Education of Montgomery County, a Severance from Employment shall occur upon termination of such service.

**2.18 SUPERINTENDENT** means the Superintendent of Schools of Montgomery County.

**2.19 UNFORESEEABLE EMERGENCY** means a severe financial hardship of the Participant or Beneficiary resulting from an illness or accident of the Participant or Beneficiary, the Participant's or Beneficiary's spouse, or the Participant's or Beneficiary's dependent (as defined in section 152(a) of the Code), loss of the Participant's or Beneficiary's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant or the Beneficiary. The circumstances that will constitute an "Unforeseeable Emergency" will depend upon the facts of each case, but, in any case, payment may not be made to the extent that such hardship is or may be relieved:

- (i) Through reimbursement or compensation by insurance or otherwise;
- (ii) By liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship; or
- (iii) By cessation of deferrals under the Plan.

The need to send a Participant's child to college or the desire to purchase a home shall not be considered an Unforeseeable Emergency. The determination of what constitutes an Unforeseeable Emergency shall be made by the Administrator in accordance with the terms of the Plan, the Code and the applicable regulations and rulings.

**2.20 VOLUNTARY SALARY DEFERRAL AGREEMENT** means the agreement between a Participant and the Employer to defer receipt by the Participant of Compensation not yet paid or otherwise made available. Such agreement shall be in such form as may be prescribed by the Administrator and subject to such uniform administrative rules as the Administrator shall establish from time to time subject to the terms of this Plan.

## **ARTICLE III**

### **PARTICIPATION IN THE PLAN**

#### **3.1 ENROLLMENT- VOLUNTARY SALARY DEFERRAL AGREEMENT.**

Each Eligible Employee may become a Participant as of the date his or her employment begins by completing a Voluntary Salary Deferral Agreement and submitting it to the Employer on or before that date. An Eligible Employee who does not become a Participant as of the date his or her employment begins may become a Participant on the first day of the month next following the date on which the Eligible Employee enrolls in the Plan by completing a Voluntary Salary Deferral Agreement and submitting it to the Employer. Any person elected or appointed to a term of office on the Board of Education of Montgomery County shall be deemed to begin employment at the time he or she assumes duties as a member of such Board. Deferrals may commence as of the first pay date on or after the date the Eligible Employee becomes a Participant, or as soon as administratively practicable thereafter.

#### **3.2 ACCEPTANCE OF ROLLOVERS.**

A Participant may make a rollover contribution to the Plan to the extent such rollover contribution constitutes an Eligible Rollover Distribution (as defined in Section 5.7(b)) from an Eligible Retirement Plan (as defined in Section 5.7(c)) and to the extent allowed by the applicable Investment Option. The Plan will not accept a rollover of any after-tax employee contributions. The Plan shall separately account for all rollover contributions.

## ARTICLE IV

### DEFERRAL OF COMPENSATION

#### 4.1 MAXIMUM DEFERRAL.

(a) Primary Limitation. A Participant's Deferral amount in any calendar year shall not exceed the lesser of (1) the Applicable Dollar Amount or (2) 100 percent (100%) of the Participant's Includable Compensation for the year. "Applicable Dollar Amount" means the amount specified by Code section 457(e)(15)(A), as adjusted automatically each calendar year to reflect increases in cost-of-living in accordance with Code sections 457(e)(15)(B) and 415(d).

(b) Age 50 or Older Alternative Catch-up Limitation. Any Participant who has attained age fifty (50) before the close of the Participant's taxable year, and who has contributed the maximum amount permissible under Section 4.1(a), may make catch-up contributions for the taxable year equal to the lesser of: (1) the Applicable Catch-Up Dollar Amount, or (2) the excess of (i) the Participant's Compensation for the taxable year, over (ii) the Participant's Deferrals for such taxable year. "Applicable Catch-Up Dollar Amount" means the amount specified by Code section 414(v)(2)(B)(i), as adjusted automatically each calendar year to reflect increases in cost-of-living in accordance with Code sections 414(v)(2)(C) and 415(d).

(c) Coordination With Other Plans. If a Participant participates in more than one Code section 457(b) plan, the maximum deferral under all plans shall not exceed the Applicable Dollar Amount (subject to modification by the catch-up limitation described in (b) above). Sections 4.1(a) and 4.1(b) shall not apply to a qualified governmental excess benefit arrangement (as defined in Code Section 415(m)(3)) and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan.

(d) The Employer, in its sole discretion, shall determine if any reduction in contributions is required by reason of the limitations set forth in Section 4.1(a). No Participant shall be entitled to any contributions in excess of such limitations. If the Employer determines at any time that it has erred by accepting contributions by or on behalf of a Participant for any Plan Year in violation of such limitations, then the amount of any required reduction in the Participant's Deferrals made pursuant to a Voluntary Salary Deferral Agreement (with allocable net earnings) shall be returned to him or her, in a manner consistent with applicable law.

#### 4.2 MODIFICATIONS TO AMOUNT DEFERRED.

A Participant may change Deferrals with respect to Compensation not yet earned or paid by submitting a new properly executed Voluntary Salary Deferral Agreement to the Employer. Such change shall take effect as soon as administratively practicable but not earlier than the pay

date on or after the first day of the month following receipt by the Employer of the properly executed Voluntary Salary Deferral Agreement. The Administrator may, in its sole discretion, limit the number of times a Participant may change his or her Deferrals during any Plan Year or portion of a Plan Year.

#### **4.3 REVOCATION OF DEFERRAL.**

Any Participant may revoke his or her election to have Compensation deferred by so notifying the Employer in writing. The revocation will be effective as soon as administratively practicable, but no earlier than the first pay period beginning on or after receipt of such written notice by the Employer.

#### **4.4 DURATION OF DEFERRAL ELECTION.**

Once a Deferral election has been made by the Participant, the election shall continue in effect until the Participant's Severance from Employment, unless the Participant modifies the Deferral in accordance with Section 4.2 or revokes the Deferral in accordance with Section 4.3.

#### **4.5 CANCELLATION OF DEFERRAL ELECTIONS IN THE EVENT OF HARDSHIP DISTRIBUTIONS.**

In the event a Participant receives a hardship distribution under the Employer's Tax-Sheltered Savings Plan, the Participant's Voluntary Salary Deferral Agreement shall be cancelled automatically and the Participant shall not be eligible to make a new Voluntary Deferral Agreement or make Deferrals under this Plan for a period of six (6) months from the date on which such hardship distribution is made.

## **ARTICLE V**

### **DISTRIBUTION OF BENEFITS**

#### **5.1 DISTRIBUTION UPON SEVERANCE FROM EMPLOYMENT OR AGE 70-1/2.**

(a) General Rule. A Participant is entitled to receive a distribution from his or her Deferred Compensation Account upon the earliest of his or her Severance from Employment or the calendar year in which he or she attains age 70-1/2. The Participant may elect to receive his or her distribution in any form of payment permitted under Section 5.4. The Participant will elect the time at which distribution will be made or begin, subject to the provisions of paragraph (b).

(b) Required Beginning Date. In no event may distribution of a Participant's Deferred Compensation Account begin later than the April 1 following the calendar year in which the Participant attains age seventy and one-half (70-1/2) or retires, whichever is later.

#### **5.2 IN-SERVICE DISTRIBUTION DUE TO UNFORESEEABLE EMERGENCY.**

A Participant may request an in-service distribution due to severe financial hardship by submitting a written request to the Administrator accompanied by evidence to demonstrate that the circumstances being experienced qualify as an Unforeseeable Emergency. The Administrator shall have the authority to require such evidence as deemed necessary to determine if a distribution is warranted. If an application for a hardship distribution due to an Unforeseeable Emergency is approved, the distribution shall be limited to an amount sufficient to meet the emergency plus any estimated tax liability. The allowed distribution shall be payable in a lump sum as soon as practicable after approval.

#### **5.3 IN-SERVICE DISTRIBUTIONS OF CERTAIN SMALL ACCOUNTS.**

To the extent allowable under the applicable Investment Option, a Participant may elect a lump sum distribution of his or her benefits prior to Severance from Employment if (i) the total amount held under the Plan for the Participant, not including rollover contributions, does not exceed the dollar limit under Code section 411(a)(11)(A), (ii) no amount has been deferred under the Plan with respect to the Participant during the two-year period ending on the date of the in-service distribution, and (iii) the Participant has not previously received an in-service distribution of the total amount payable to the Participant under the Plan.

#### **5.4 DISTRIBUTION OPTIONS.**

Distributions shall be made in any manner allowed by the applicable Investment Option.

## **5.5 DEATH DISTRIBUTION PROVISIONS.**

(a) Death After Commencement of Benefits. If the Participant dies after distribution of his or her Deferred Compensation Account has begun, the remaining portion of his or her Deferred Compensation Account will be distributed to the Participant's Beneficiary according to the method of distribution in effect under Section 5.4, subject to the Beneficiary's right to change the timing or form of payments as described therein.

(b) Death Before Commencement of Benefits. If the Participant dies before distribution of his or her Deferred Compensation Account has begun, the Participant's Beneficiary is entitled to receive a distribution of the Participant's Deferred Compensation Account in a form of payment set forth in Section 5.4. The Beneficiary will elect the form of payment and the time at which distribution will be made or begin, subject to Section 5.6.

## **5.6 MINIMUM REQUIRED DISTRIBUTIONS.**

(a) General. This Section 5.6 is included in the Plan to comply with Code section 401(a)(9). To the extent that there is any conflict between the provisions of Code section 401(a)(9) and the provisions in this Plan, the provisions of Code section 401(a)(9) will control.

The provisions set forth in this Section are intended to reflect the regulations under Code section 401(a)(9).

(b) Distributions During the Participant's Lifetime. Distributions to a Participant occurring after the Participant's Required Beginning Date must be at least equal to the Participant's Deferred Compensation Account at the end of the preceding year, divided by the "applicable divisor" determined under applicable IRS regulations.

(c) Distributions After the Participant's Death.

(i) If the Beneficiary is an individual who is not the Participant's spouse, unless the Beneficiary elects application of the five-year rule described below, each year after the year of the Participant's death the Beneficiary must receive an amount at least equal to the Deferred Compensation Account balance as of the end of the preceding year, divided by the Beneficiary's single life expectancy as of the Beneficiary's birthday in the year following the year of the Participant's death (determined under applicable IRS regulations), reduced by one for each elapsed year since the year following the Participant's death. Alternatively, the Beneficiary may elect to have the Participant's entire Deferred Compensation Account be distributed on or before December 31 of the calendar year in which the fifth anniversary of the Participant's death occurs.

(ii) If the Beneficiary is the Participant's spouse, the distribution rule set forth in paragraph (i) above shall apply; however, distributions will not be required to begin by December 31 of the calendar year following the calendar year in which the Participant dies and instead may be delayed until December 31 of the year in which the Participant would have

attained age seventy and one-half (70-1/2). If the spouse dies before payments begin, subsequent distributions shall be made as if the spouse had been the Participant.

(iii) If the Beneficiary is not an individual, and if the Participant dies on or after his or her Required Beginning Date, each year after the year of the Participant's death the Beneficiary must receive an amount at least equal to the Deferred Compensation Account balance as of the end of the preceding year divided by the Participant's single life expectancy as of Participant's birthday in the year of death (determined under applicable IRS regulations), reduced by one for each elapsed year since the year of death.

(iv) If the Beneficiary is not an individual, and if the Participant dies before his or her Required Beginning Date, the Participant's entire Deferred Compensation Account must be distributed to his or her designated Beneficiary on or before December 31 of the calendar year in which the fifth anniversary of the Participant's death occurs.

## **5.7 DIRECT ROLLOVER PERMITTED.**

(a) Election. The Recipient (as defined in Section 5.7(d)) of a distribution may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan.

(b) Eligible Rollover Distribution means any distribution to a Recipient which qualifies as an eligible rollover distribution under Code section 402(c)(4) or any successor provision.

(c) Eligible Retirement Plan means any of the following that accepts the recipient's eligible rollover distribution: an individual retirement account described in Code section 408(a), an individual retirement annuity described in Code section 408(b), an annuity plan described in Code section 403(a), a qualified trust described in Code section 401(a), an annuity contract described in Code section 403(b) and an eligible plan under Code section 457(b) of the Code which is maintained by a state, political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. To the extent federal law so provides, an "eligible retirement plan" also includes the federal Thrift Savings Plan.

(d) Recipient means (i) a Participant or former Participant, (ii) the Participant's or former Participant's surviving spouse, (iii) the Participant's or former Participant's spouse or former spouse who is an alternate payee under a Domestic Relations Order, as defined in Section 9.4, and (iv) to the extent allowed by Code section 402(c)(11), a designated Beneficiary who is not the surviving spouse.

## **5.8 PLAN TO PLAN TRANSFERS.**

Notwithstanding any other provisions of the Plan, to the extent permitted by law, all or any part of the Deferred Compensation Account of a Participant may be transferred to another eligible governmental deferred compensation plan if (a) the plan receiving such transfer provides

for acceptance of such transfers and (b) the Participant gives written direction to the Investment Sponsor in satisfactory form to make such transfer. The Investment Sponsor shall be solely responsible for effecting such transfer and the Employer shall have no liability with respect to such transfer.

## **5.9 LOANS.**

Loans shall be permitted under the Plan to the extent permitted by the Investment Option controlling the Deferred Compensation Account assets from which the loan is made and by which the loan will be secured.

(a) Each Investment Sponsor is responsible for all information reporting and tax withholding required by applicable federal and state law in connection with distributions and loans. To minimize the instances in which Participants have taxable income as a result of loans from the Plan, the Administrator shall take such steps as may be appropriate to coordinate the limitations on loans set forth in Section 5.9, including the collection of information from Investment Sponsors, and transmission of information requested by any Investment Sponsor, concerning the outstanding balance of any loans made to a Participant under the Plan or any other plan of the Employer. The Administrator shall also take such steps as may be appropriate to collect information from Investment Sponsors, and transmission of information to any Investment Sponsor, concerning any failure by a Participant to repay timely any loans made to a Participant under the Plan or any other plan of the Employer.

(b) No loan to a Participant under the Plan may exceed the lesser of :

(i) \$50,000 reduced by the greater of (i) the outstanding balance on any loan from the Plan to the Participant on the date the loan is made or (ii) the highest outstanding balance on loans from the Plan to the Participant during the one-year period ending on the day before the date the loan is approved by the Administrator (not taking into account any payments made during such one-year period) or;

(ii) one half of the value of the Participant's vested Deferred Compensation account balance (as of the valuation date immediately preceding the date on which such loan is approved by the Administrator).

For purposes of this Section 5.9, any loan from any other plan maintained by the Employer and any entity under common control with the Employer under section 414(b) or (c) of the Code shall be treated as if it were a loan made from the Plan, and the Participant's vested interest under any such other plan shall be considered a vested interest under this Plan; provided, however, that the provisions of this paragraph shall not be applied as to allow the amount of a loan to exceed the amount that would otherwise be permitted in the absence of this paragraph.

## **ARTICLE VI**

### **BENEFICIARY INFORMATION**

#### **6.1 DESIGNATION.**

A Participant shall have the right to designate a Beneficiary or Beneficiaries, and amend or revoke such designation at any time, in writing. Such designation, amendment or revocation shall be effective upon receipt of such written designation pursuant to rules established by the applicable Investment Sponsor.

## **ARTICLE VII**

### **PLAN ADMINISTRATION**

#### **7.1 PLAN ADMINISTRATION.**

The Administrator shall have the power and authority to adopt, interpret, alter, amend or revoke rules and regulations necessary to administer the Plan, delegate ministerial duties and make recommendations to the Employer regarding the employment of such outside professionals as may be required for prudent administration of the Plan. The Administrator, if otherwise eligible, may participate in the Plan, but shall not be entitled to make decisions solely with respect to his or her own participation.

#### **7.2 OWNERSHIP OF ASSETS.**

All amounts of Compensation deferred under the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property or rights shall be held in accordance with Code section 457(g) in a trust and/or in one or more custodial accounts or contracts described in Code section 401(f), for the exclusive benefit of Plan Participants and Beneficiaries. Any trust under the Plan shall be established pursuant to a written agreement that constitutes a valid trust under the laws of the State of Maryland. Any annuity contract must be issued by an insurance company qualified to do business in the state where the contract was issued. The custodian of any custodial account created pursuant to the Plan must be a bank, as described in Code section 408(n), or a person who meets the non-bank trustee requirements of paragraphs (2)-(6) of Treas. Reg. Section 1.408-2(e) relating to the use of non-bank trustees. Each Investment Sponsor shall be responsible for satisfying the requirements of this Section 7.2 with respect to each of the Investment Options it provides under this Plan.

#### **7.3 ACCOUNTS AND EXPENSES.**

Each Investment Sponsor shall establish and maintain a Deferred Compensation Account on behalf of each Participant who elects to invest in any Investment Option made available by such Investment Sponsor. Such Deferred Compensation Account shall be valued at fair market value as of the last day of the Plan Year and such other dates as the Administrator shall determine. Each Participant shall receive an accounting at least annually, or more frequently at such intervals as the Administrator shall determine, of his or her Deferred Compensation Account balance following such valuation. Such accounting shall be rendered thirty (30) days after the end of the quarter or as soon as administratively practicable thereafter. Each Participant's Deferred Compensation Account shall be credited with the amount of any Deferrals and any amounts rolled over or transferred to this Plan pursuant to Sections 3.2 or 5.8, and shall be further credited or debited, as applicable, with (i) any increase or decrease resulting from investments pursuant to Section 7.4 and (ii) the amount of any distribution.

#### **7.4 INVESTMENTS.**

(a) Each Participant shall be solely responsible for the investment of his or her Deferred Compensation Account and Deferrals among the available Investment Options. Neither the Employer nor the Administrator shall have any duty or responsibility regarding any Participant's investment of amounts allocated to his or her Deferred Compensation Account. Each Investment Sponsor shall be solely responsible for the selection, operation, and communication of Investment Options it makes available pursuant to the Plan, and neither the Employer nor the Superintendent shall be deemed to have endorsed, approved or agreed to the suitability of any such Investment Option made available by any Investment Sponsor.

(b) The initial investment allocation request may be made at the time of enrollment. Once made, an investment allocation request shall remain in effect for all subsequent Deferrals until changed by the Participant. A Participant may change his or her investment allocation at such times as permitted by the Investment Sponsors. While the Employer intends that Deferrals be invested according to the Participants' requests, it reserves the right to invest Deferrals without regard to such requests. Deferrals may be invested in Investment Options which commingle the assets of the Plan with assets of other Code section 457 plans in a group trust, and/or which commingle the assets of the Plan with the assets of other Code section 457 plans. If a Participant fails to make an investment election, his or her Deferrals and Deferred Compensation Account, if applicable, shall be invested in a default election determined in accordance with the Plan.

#### **7.5 TIMING OF CONTRIBUTIONS.**

All amounts of Compensation deferred under the Plan shall be transferred to a trust established under the Plan, or to a custodial account or annuity contract described in Code section 401(f), within a period that is not longer than is reasonable for the proper administration of the accounts of Participants.

## **ARTICLE VIII**

### **AMENDMENT OR TERMINATION OF PLAN**

#### **8.1 AMENDMENT OF PLAN.**

The Employer shall have the right to amend the Plan, at any time and from time to time, in whole or in part.

#### **8.2 TERMINATION.**

Although the Employer has established this Plan with the intention and expectation to maintain the Plan indefinitely, the Employer may terminate or discontinue the Plan in whole or in part at any time without any liability for such termination or discontinuance. Upon Plan termination, all Deferrals shall cease. Upon termination, amounts credited to Deferred Compensation Accounts shall be distributed in accordance with Article V. The investment of accounts pending distribution shall continue to be subject to the provisions of this Plan regarding investments.

## **ARTICLE IX**

### **MISCELLANEOUS**

#### **9.1 LIMITATION OF RIGHTS.**

Neither the establishment of this Plan nor any modification thereof, nor the creation of any fund or account, nor the payment of any benefits, shall be construed as giving a Participant or other person any legal or equitable right against the Employer except as provided in the Plan.

#### **9.2 NO CONTRACT OF EMPLOYMENT.**

Nothing in this Plan shall be deemed to be an agreement, consideration, inducement or condition of employment, nor shall the rights or obligations of the Employer or of any employee employed by the Employer to continue or terminate employment at any time be affected hereby.

#### **9.3 LIMITATION ON ASSIGNMENT.**

Except as provided in Section 9.4, benefits under this Plan may not be assigned, sold, transferred, or encumbered, and any attempt to do so shall be void. A Participant's or Beneficiary's interest in benefits under the Plan shall not be subject to debts or liabilities of any kind and shall not be subject to attachment, garnishment or other legal process.

#### **9.4 DOMESTIC RELATIONS ORDERS.**

Amounts held for the benefit of a Participant in the Plan may be assigned or paid at any time, in accordance with a domestic relations order that the Administrator determines complies with the requirements of Code Section 414(p)(1)(A)(i).

#### **9.5 TRANSFERS TO A DEFINED BENEFIT PLAN.**

A Participant in this Plan may, at any time, transfer funds directly to a Code section 401(a) defined benefit plan for purchase of service credit or to repay a lump sum amount previously withdrawn in accordance with applicable IRS guidance.

#### **9.6 REPRESENTATIONS.**

The Employer does not represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will result from participation in this Plan. A Participant should consult with professional tax advisors to determine the tax consequences of his or her participation. Furthermore, the Employer does not represent or guarantee successful investment of Deferrals, and shall not be required to repay any loss which may result from such investment or lack of investment.

**9.7 SEVERABILITY.**

If a court of competent jurisdiction holds any provisions of this Plan to be invalid or unenforceable, the remaining provisions of the Plan shall continue to be fully effective.

**9.8 APPLICABLE LAW.**

This Plan shall be construed in accordance with applicable federal law and, to the extent otherwise applicable and to the extent not superseded by applicable federal law, the laws of the State of Maryland.

IN WITNESS WHEREOF, this Plan has been duly executed by the Employer effective as of the 1st day of January, 2009.

WITNESS/ATTEST

BOARD OF EDUCATION OF  
MONTGOMERY COUNTY

\_\_\_\_\_

By: \_\_\_\_\_  
Jerry D. Weast, Ed.D.  
Superintendent

Date: \_\_\_\_\_