



# Performance-Based Superintendent Employment Contracts: A “How To” Guide

Effective January 1, 1998, employment contracts between Illinois boards of education and superintendents (as well as other administrators) may range in duration from a single year to a multi-year period up to five years. Determining the length of a contract depends on many factors. Their distinguishing features, however, greatly influence the decision to use a single or multi-year contract.

**Under one-year contracts**, superintendents gain and retain their tenure rights and are not subject to performance-based contract extension requirements. Thus, a superintendent employed under a one-year contract gains tenure after being employed for two consecutive school terms, or, if first employed after January 1, 1998, after four consecutive school terms. Although a superintendent does not receive tenure in a specific position, a tenured superintendent has the same due process rights as a certificated teacher.

**Under multi-year contracts**, superintendents waive all tenure rights. A multi-year contract must include specific performance-based components. The parties may, by mutual agreement, amend the performance-based contract anytime during a multi-year contract's term. If the performance goals are not met during the contract, the contract may not automatically roll-over, although the parties may enter into a new contract.

Agreements to set the performance goals and indicators by a date certain, usually within the first year of the multiple year contract, are unenforceable if the parties fail to agree. Using the “agreement to agree” approach is popular, especially in the case of a superintendent new to the district. However, considering the fact that all multiple year contracts entered into after January 1, 1998, must contain performance-based goals and indicators, the parties may feel legitimate urgency to identify the same before actually executing a multiple year contract.

**This publication is a basic “how to” guide for a school board as it strives to prepare and implement appropriate performance-based multi-year contracts for its superintendent.** The law affords great latitude in the development of these employment agreements; thus, a board should seize the opportunity to focus its own efforts, as well as those of its superintendent, on performance goals most suitable for the school district. Rather than beginning with model goals or formula measurement techniques, a board and its superintendent should jointly establish district improvement objectives to serve as the foundation for individual performance-based employment contracts.

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While this publication does not specifically address non-superintendent administrative contracts, the basic guidance it suggests is applicable to such contracts. For a school board, the threshold issues concern who determines the type of contract to extend to non-superintendent administrators and who negotiates the contracts' terms. In other words, does the superintendent or board work with the other administrators to devise the contracts? Regardless of the answer, input should be sought from the relevant administrators.

Section 10-23.8 of *The School Code* contains the "performance-based" provisions applicable to multi-year superintendent employment agreements:

Performance-based contracts shall be linked to student performance and academic improvement within the schools of the districts. No performance-based contract shall be extended or rolled-over prior to its scheduled expiration unless all the performance and improvement goals contained in the contract have been met. Each performance-based contract shall include the goals and indicators of student performance and academic improvement determined and used by the local school board to measure the performance and effectiveness of the superintendent and such other information as the local school board may determine.

With the above statutory requirements in mind, we suggest the following sequential steps be taken whenever a school board and its superintendent are amenable to a multi-year employment relationship:

## **Step 1 - Review Any Current District Goals**

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Many boards have a planning or goal setting process in place. Shaping a performance contract should begin with these existing goals and processes. While the district's goals and vision can provide the basis for developing a multi-year contract, the board and superintendent must carefully consider the relationship between them. Questions to answer include:

- Which of the district's goals are appropriate to place into the contract?
- Which relate to student performance or academic achievement?
- Are the goals clear and concise, with meaningful indicators, or are some more visionary and inspirational?
- Which are appropriately within the superintendent's control?

**These questions highlight a significant fact: performance contracts are but one use and function of district goals and the planning process.**

If your board does not have an effective planning process in place, performance-based contracts provide another occasion to move in this direction. There are many reasons to invest resources in a planning and goal setting process: clarity regarding district direction and purpose; the ability to "get all district constituents on the same page;" allocation of resources, assessment, and board monitoring. IASB Field Service Directors are prepared to help districts who wish to implement a goal setting process, refine their superintendent evaluation process, or think carefully about the board's role in monitoring district performance. Interested districts should consult with their IASB Field Service Staff person. *Call the Association or visit our web site at [www.iasb.com](http://www.iasb.com).*

## **Step 2 - Establish A Process For Development Of The Performance-Based Goals And Indicators For The Contract**

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Process-related issues to consider include:

- who will initiate the process - the board or the superintendent?
- the role of the board (will it specify goals, brainstorm possibilities, or review and approve the superintendent's suggestions?)
- the role of the superintendent (will the superintendent prepare and recommend all goals, respond to the board's proposal, or work with the board or its committee to devise the goals by consensus?)
- the role of the community or others (will the board seek input from the community or from school improvement professionals, and, if so, how?)
- time lines (may need to synchronize district goal development, now done in the summer/fall, with superintendent goal development, typically needed in the spring for July employment contracts)
- approval procedures (open versus closed session meetings, independent from and preliminary to or incorporated in actual employment contract vote)
- future processes for modifying goals or preparing new ones when accomplished

## **Step 3 - Decide On The Goals To Be Written Into The Contract**

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No magic exists in formulating a superintendent's performance goals. Ensure that the goals included in the contract:

- relate to district-wide goals
- are achievable within budgetary and other constraints
- are within the superintendent's control
- are clear and concise
- are limited in number
- allow for flexibility
- can be measured.

Several common goal topic areas are listed in the *Appendix*.

## **Step 4 - Develop Indicators To Assess The Performance And Effectiveness Of The Superintendent**

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Indicators that a superintendent has successfully achieved a goal should be objective, clear, concise, and flexible. In addition, try to avoid achievement or improvement indicators that rely on specific percentage increases or other mathematical measures from standardized test scores because their fluctuations may not be within the superintendent's control. Another recognized difficulty with test score emphasis is that it narrows the curricular focus.

Allow the goal's format to guide the construction of the indicators. Several example indicators illustrating their logical relation to a performance-based goal are included in the *Appendix*.

Once developed, the performance-based goals and indicators should be placed in a viable, well-written employment contract; the parties should consult their legal counsels for assistance.

## **Step 5 - Establish The Process To Be Used For Assessing Whether The Contractual Goals Have Been Met**

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The significant process-related issues include:

- the frequency of assessment (will measurement of performance and effectiveness occur annually or on some other time frame?)
- the method of assessment (will the superintendent be asked to prepare a report, will a checklist and rating scale be developed, and/or will a narrative be prepared?)
- who will conduct the assessment (the board or a committee)
- method of arriving at consensus among board members
- coordination with the regular superintendent evaluation process
- implementation of employment contract extension or roll-over

## **Appendix**

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I. Goal Topic Areas (see Step 3). Example general goal topic areas include the following. Do not adopt these as boilerplate goals; their appropriateness will depend on factors unique to each district.

### 1. Student Performance

- to develop performance outcome statements for each grade level
- to increase the number of students reading at grade level
- to increase attendance (decrease truancy, drop-out rate)
- to reduce the number of student expulsions and suspensions
- to develop a plan for expanded student extracurricular activities
- to research and report on the feasibility of individual student achievement goals
- to study alternatives for implementing a community service graduation requirement

### 2. Academic Improvement

- to establish curriculum goals (for all subjects, for mathematics, etc.)
- to develop a technology plan for the district
- to research, develop, and implement a sequential math (reading, social studies, science) program aligned to ISBE standards
- to prepare a plan for teacher professional development

- to research, develop, and implement a program for the gifted (inclusion)
- to assess and recommend a plan for individualizing instruction in all grades
- to implement the middle school concept (block scheduling, multi-age classrooms)
- to develop a peer mentoring program for newly hired teachers
- to coordinate the review and modification of the teacher evaluation plan
- to develop school-community relations to accomplish instructional goals
- to plan and implement a program for study skills instruction (throughout the district, in the middle school)

### 3. Other Goal Areas

- to prepare a five-year financial plan
- to establish a citizens' advisory council (foundation, PTO)
- to develop a long-range school facilities plan
- to inventory all district-owned equipment
- to review and assess the district transportation system (food service)
- to facilitate board members to modify and update the board policy manual
- to investigate and implement a non-traditional approach to labor contract negotiations
- to research and investigate the use of outside custodial services

**II. Performance Indicators (see Step 4).** The following sample indicators illustrate their logical relation to a performance-based goal. Do not adopt these as boilerplate goals; their appropriateness will depend on factors unique to each district.

*Student Performance Goal* - To increase the number of students reading at grade level.

*Indicators* - The superintendent will:

- compile base line data on the numbers reading below grade level
- organize and facilitate a committee to coordinate remedial reading efforts
- plan and allocate supplementary reading materials for remedial assistance
- assess and interpret reading achievement scores on the California Achievement Test two years after the base line compilation of data

*Academic Improvement Goal* - To prepare a plan for teacher professional growth.

*Indicators* - The superintendent will:

- develop a district-wide schedule for staff in-service related to the instructional goals
- organize and lead visits to a demonstration school using block scheduling
- guide individual teachers in selecting appropriate academic coursework based upon classroom observation records
- assess the effectiveness of teacher in-serve programs

*Other Goal* - To facilitate the board work of developing and maintaining a current written board policy manual.

*Indicators* - The superintendent will:

- make a copy of the board policy manual available in the district administrative office during regular business hours
- alert the board to changes in state and federal statutes, regulations and court decisions that may impact the district's board policy manual
- provide the board with sufficient information and district data to enable the board to make sound policy decisions
- provide policy alternatives and sample language for new and revised board policies
- inform the board of available resources, such as the IASB Policy Services, to assist the board with its policy making role

*Other Goal* - To develop and maintain a current written administrative procedures manual containing district-wide procedures implementing board policy.

*Indicators* - The superintendent will:

- make a copy of the district administrative procedures manual available in the district administrative office during regular business hours
- ensure that district administrative procedures are consistent with board policy
- utilize reliable outside resources to keep informed of recent changes in the law which may affect district procedures
- ensure that district administrative procedures are consistent with current state and federal law

This publication is designed to provide information only and is not a substitute for legal advice from school district legal counsel.

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