

LAPEER COMMUNITY SCHOOLS
457(b) ELIGIBLE DEFERRED COMPENSATION PLAN

Effective: October 1, 2008

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**LAPEER COMMUNITY SCHOOLS
DEFERRED COMPENSATION PLAN**

ARTICLE I – DEFINITIONS

1.01 “Account Balance” means the bookkeeping account maintained with respect to each Participant which reflects the value of the Deferred Compensation credited to the Participant, including the Participant’s annual deferrals, Non-Elective Employer Contributions made for the Participant, the earnings or losses allocable to the Participant, any transfers for the Participant’s benefit and any distribution made to the Participant or the Participant’s Beneficiary. If a Participant has more than one Beneficiary at the time of the Participant’s death, then a separate Account Balance shall be maintained for each Beneficiary. A separate Account Balance will also be maintained for any alternate payee as defined in Section 5.04 of the Plan.

1.02 “Administrator” means the Employer or its duly authorized designee who shall exercise discretion on behalf of the Employer.

1.03 “Applicable Dollar Amount” means the amount determined under Code Section 457(e)(15) as amended from time to time. Effective for Plan Years beginning after December 31, 2001, the Applicable Dollar Amount for each year is as follows:

<u>Calendar Year</u>	<u>Applicable Dollar Amount</u>
2002	\$11,000
2003	\$12,000
2004	\$13,000
2005	\$14,000
2006	\$15,000

Commencing with calendar year 2007, the Secretary shall adjust the \$15,000 amount at the same time and in the same manner as under Code Section 415(d) except that the base period shall be the calendar quarter beginning July 1, 2005, and any increase under this paragraph which is not a

multiple of \$500 shall be rounded to the next lowest multiple of \$500. All subsequent adjustments made to the Applicable Dollar Amount, including adjustments made as a result of amendments to the Code or as a result of cost of living adjustments shall be automatically incorporated herein without the necessity of subsequent amendment.

1.04 "Beneficiary" generally means the beneficiary the Participant has designated to receive benefits as provided in Section 3.04.

1.05 "Catch-up Deferral" means a contribution made by a Participant who is eligible to defer Compensation under this Plan, who is eligible to make a Catch-Up Deferral under Code Section 457(e)(18) and Section 1.07(d) of the Plan and who has attained age 50 before the close of the Plan Year in accordance with, and subject to the limitations of, Section 414(v) of the Code. The Catch-up Deferral shall be a deferral made for a Plan Year commencing after December 31, 2001 and the lesser of (i) the Catch-up Deferral Applicable Dollar Amount, or (ii) the Participant's compensation (as defined in Code Section 415(c)(3) for the year over any other elective deferrals. The Catch-Up Deferral Applicable Dollar Amount shall mean the amount determined under Code Section 414(v)(2)(B), as amended from time to time.

1.06 "Code" means the Internal Revenue Code of 1986, as amended, and includes regulations thereunder.

1.07 "Compensation" means the gross income paid to the Employee by the Employer during the Plan Year for services rendered, including compensation deferred under the provisions of this Plan and elective deferrals pursuant to Code Sections 403(b), 125, or 132(f).

1.08 "Deferred Compensation" means that portion of an Employee's Compensation which the Employee has elected to defer in accordance with the provisions of the

Plan, subject to the following limitations effective for Plan Years commencing after December 31, 2001:

- (a) The maximum amount that may be deferred under the Plan for the taxable year of a Participant [except as provided in (b) below] shall not exceed the lesser of (1) the Applicable Dollar Amount, or (2) one hundred (100%) percent of the Participant's Includible Compensation.
- (b) For one or more of a Participant's last three (3) taxable years ending prior to a Participant attaining Normal Retirement Age, the maximum amount that may be deferred under the Plan shall be the lesser of
 - (1) Two times the Applicable Dollar Amount, or
 - (2) the sum of the limitation in (a) above and the amount of the limitation in (a) above which has not been utilized by the Participant in his previous taxable years.
- (c) For any individuals who are participants in more than one plan established under Section 457 of the Code, the maximum amount of compensation deferred for all such plans during any taxable year shall not exceed the Applicable Dollar Amount.
- (d) For a Participant who is eligible to make a deferral using the maximum set forth under Section 457(b)(3) of the Code and Section 1.07(b) of the Plan and is also eligible to make a Catch-Up

Deferral under Section 414(v) of the Code, the maximum amount that may be deferred under the Plan shall be the greater of (1) the sum of the amount determined under Section 1.07(a) of the Plan plus the Catch-Up Deferral; or (2) the amount determined under Section 1.07(b) of the Plan. The maximum deferral of such a Participant shall not exceed the amount permitted under Code Section 457(e)(18).

- (e) Accumulated sick pay, vacation pay and/or back pay may be deferred for any calendar month only if an agreement providing for the deferral is entered into before the beginning of the month in which the amounts would otherwise be paid or made available and the Participant is an Employee in that month. As to accumulated sick pay, vacation pay and/or back pay that is payable before the Participant has a severance from employment, these requirements are satisfied if the agreement providing for the deferral is entered into before the amount is currently available (as defined in the regulations under Code Section 401(k)). In addition, deferrals may be made by a former Employee who is a Participant in the Plan as to certain compensation paid by the later of 2 ½ months after severance from employment or the end of the limitation year that includes the date of severance from employment to the extent permitted by Code and regulations thereunder.

1.09 "Effective Date" means the effective date of this Plan, which is October 1, 2008 except where otherwise specified.

1.10 "Employee" means any individual who performs personal services for the Employer other than individuals who are regularly scheduled to work less than 10 hours per week, seasonal workers, substitute teachers, individuals employed on a temporary basis and individuals who perform personal services for the Employer other than in an administrative capacity and who are paid other than through the regular payroll of the Employer .

1.11 "Employer" means Lapeer Community Schools.

1.12 "Includible Compensation" means the Compensation of an Employee which is currently includible in gross income, determined pursuant to Section 457(e)(5) of the Code and the regulations thereunder.

1.13 "Normal Retirement Age" means the date on which a Participant attains age sixty (60).

1.14 "Participant" means any Employee who voluntarily elects to participate in this Plan by filing a duly executed Participation Agreement with the Employer as well as any individual who has previously deferred Compensation under the Plan and who has not received a distribution of his or her entire benefit under the Plan.

1.15 "Participation Agreement" means the contract by which the Employee and the Employer agree to contribute to the Plan a portion of the Employee's Compensation either as an elective reduction in Compensation or pursuant to the terms of the Employee's employment agreement and in accordance with the provisions of the Plan.

1.16 "Plan" means the Lapeer Community Schools 457(b) Eligible Deferred Compensation Plan, in its current form as amended from time to time, which is intended to meet the applicable requirements of Section 457 of the Code.

1.17 "Plan Year" means the calendar year. The Plan Year shall commence on January 1 and end on December 31. The first Plan Year shall be a short Plan Year commencing on October 1 and ending on December 31.

1.18 "Trust" means the separate trust, custodial account or contract which is established to hold the assets of the Plan. Any custodial account or contract shall be treated as a trust only if it meets rules similar to Code Section 401(f). All amounts of Compensation deferred pursuant to the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall either be (1) held in trust for the exclusive benefit of Participants and Beneficiaries under the Plan; (2) held in one or more annuity contracts, as defined in Code Section 401(g), issued by an insurance company qualified to do business in the state where the contract was issued, for the exclusive benefit of participants and beneficiaries under the Plan; or (3) held in one or more custodial accounts for the exclusive benefit of participants and beneficiaries under the Plan. Any trust under the Plan shall be established pursuant to a written agreement that constitutes valid trust under Michigan law. For purposes of the Plan, the term "annuity contract" does not include a life, health or accident, property, casualty, or liability insurance contract. For purposes of the Plan, 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 nonblank trustee requirements of paragraphs (2) – (6) of Treas. Reg. Section 1.408-2(e) relating to the use of non-bank trustees.

ARTICLE II - OPERATION OF THE PLAN

2.01 Participation. An Employee may elect to become a Participant in the Plan by executing a written Participation Agreement and filing it with the Employer. An Employee may enter into an amended Participation Agreement at any time subject to the limitations of Section 2.02.

2.02 Deferred Compensation. The Participant shall notify the Employer of any and all other plans in which the Participant participates. During each payroll period in which the Employee is a Participant in the Plan, that portion of his/her Compensation designated in the Participation Agreement as a deferral, shall be deferred, invested and distributed in accordance with the provisions of the Plan. All Deferred Compensation shall be subject to the limitations set forth in this Plan. If the Participant meets the eligibility requirements under Code Section 414(v), he or she may also make a Catch-up Deferral, subject to the requirements and limitations of Section 1.07. Compensation is to be deferred for any payroll period only if a Participation Agreement providing for such deferral is entered into before such payroll period.

2.03 Investment of the Deferred Amount. The amounts deferred in accordance with Section 2.02 shall be deposited in the Trust and invested in accordance with the terms herein. If the Trust allows self-direction of amounts, the Employee shall state his/her investment preference at the time of enrollment in the Plan. All assets held in the Trust shall be held for the exclusive benefit of Participants and their beneficiaries and the Trust shall be the exclusive source of benefits for the Participants and their beneficiaries. The Participant's interest under the Plan is limited to his/her interest under the Trust, as adjusted by investment experience, costs and interest.

2.04 Excess Deferrals. Any deferrals in excess of the deferrals permitted under Sections 457(b), (c) and or (e)(18) of the Code or the regulations or proposed regulations thereunder shall be distributed to the Participant, with allocable net income, as soon as administratively practicable after the Plan determines that the amount is an excess deferral. Such excess deferral shall be includible in the Participant's gross income in the taxable year deferred.

ARTICLE III - ADMINISTRATION AND ACCOUNTING

3.01 Administration by Employer. This Plan shall be administered by the Employer or its duly authorized designee, as described in Section 1.01, which shall prescribe such forms and adopt such rules and regulations as are necessary to carry out the purposes of the Plan.

3.02 Election to Participate. An Employee's election to participate in this Plan shall be made by filing a duly executed Participation Agreement with the Employer, and not otherwise.

3.03 Enrollment Periods.

- (a) When the Plan is made available, existing Employees may elect to participate in the Plan. Such election shall be effective on the first payroll date occurring after the Employer receives a completed Participation Agreement.
- (b) Any person who becomes an Employee after this Plan is first made available shall have the option to elect to participate in the Plan. Such elections shall be effective on the first payroll date occurring in the month after the month in which the Agreement is executed

and after the Employer receives a completed Participation Agreement.

3.04 Contents of Participation Agreement. The Participation Agreement shall be filed with the Employer and shall contain, among other provisions, the following:

- (a) A provision whereby the Participant specifies that portion of his Compensation which is to be deferred, as an elective deferral which reduces Compensation.
- (b) A provision whereby the Participant shall agree to complete and return all investment election forms required or permitted by the Trust and agree that the Participation Agreement shall not be effective until such forms are completed and returned.
- (c) A provision whereby the Participant shall designate a Beneficiary or Beneficiaries, including one or more contingent beneficiaries, to receive any benefits which may be payable under this Plan on death of the Participant. In the event a Participant dies with no surviving designated beneficiary, the Participant's estate shall be the beneficiary for benefits, if any, under this Plan.

3.05 Termination of Participation. A Participant may revoke his election to participate in the Plan by signing and filing with the Employer a written revocation of participation. Revocation of participation shall take effect as soon as administratively feasible following receipt of the written revocation of participation. Active participation shall also terminate upon termination of employment for any reason.

3.06 Amendment of Participation Agreement. A Participant may, subject to the limitations set forth in Section 2.02, change the amount of Compensation to be deferred under the Plan. A Participant may, if permitted under the terms of the Trust, file an amended investment election form. Unless the election form specifies a later date, a change in the amount of Compensation to be deferred shall take effect as of the first day of the next following month or as soon as administratively feasible, if later.

3.07 Participation Accounts. A separate certificate or contract shall be maintained for each Participant. The Participant's Account Balance shall be credited each pay period with the amount deferred as soon as is administratively feasible. The sponsor of the Trust shall prepare at least annually, a report of each Participant's interest in the Trust.

3.08 Protection of Persons Who Serve in a Uniformed Service. An Employee whose employment is interrupted by qualified military service under Code Section 414(u) or who is on a leave of absence for qualified military service under Code Section 414(u) may elect to make additional deferrals of Compensation upon resumption of employment with the Employer equal to the maximum deferrals that the Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the deferrals, if any, actually made for the Employee during the interruption or leave. This right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).

ARTICLE IV - BENEFITS

4.01 Benefits. The Participant is entitled to have paid to him/her the benefits created by his participation in this Plan in accordance with the provisions of this Article. In general, benefits and distributions shall be reported to a Participant as wages subject to withholding for federal taxes and reportable on Form 1099-R, W-2 or other appropriate Internal Revenue Service form as required under applicable tax laws and regulations.

4.02 Eligibility For Payment. Distribution of benefits from the Plan shall be made no earlier than Severance from Employment (effective for Plan Years commencing after December 31, 2001) or the calendar year in which the Participant attains age 70½. "Severance from Employment" means the severance of a Participant's employment with the Employer for any reason, including death, retirement or disability. Although otherwise permitted under Code §457(d)(1), distributions in the event of an unforeseeable emergency are not permitted under this Plan.

4.03 Commencement of Distributions. Distribution of benefits to a Participant who is eligible for payment as provided in Section 4.02 shall commence as soon as is administratively feasible after the Trust's receipt of the distribution forms. In no event, however, shall such distributions be made later than required under Section 4.04.

Notwithstanding the foregoing, a Participant may elect to receive a lump sum distribution of his or her total Account Balance without a Severance from Employment if (1) the amount does not exceed Five Thousand (\$5,000.00) Dollars; (2) the Participant has not previously received a distribution of the total amount payable to Participant under this Section; and (3) no amount has been deferred under the Plan for the Participant in the two (2) year period

ending on the date of the distribution, and there has been no prior distribution under the Plan to the Participant.

4.04. Minimum Distribution Requirements.

(a) General Rules

- (1) **Effective Date.** The provisions of this section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year, as well as required minimum distributions for the 2002 distribution year that are made on or after January 1, 2002.
- (2) **Precedence.** The requirements of this section will take precedence over any inconsistent provisions of the Plan.
- (3) **Requirements of Treasury Regulations Incorporated.** All distributions required under this section will be determined and made in accordance with the Treasury regulations under Section 401(a)(9) of the Internal Revenue Code.

(b) Time and Manner of Distribution

- (1) **Required Beginning Date.** The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.
- (2) **Death of Participant Before Distributions Begin.** If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

- (a) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, then, except as provided in Section 4.04(b)(2)(C), distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.
- (b) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then, except as provided in Section 4.04(b)(2)(C), distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
- (c) Participants or Beneficiaries may elect on an individual basis whether the 5-year rule or the life expectancy rule in Sections 4.04(b)(2) and 4.04(d)(2) of the Plan applies to distributions after the death of a Participant who has a designated Beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Section 4.04(b)(2) of the Plan, or by September 30 of the calendar year which contains the fifth anniversary of the

Participant's (or, if applicable, surviving spouse's) death. If neither the Participant nor Beneficiary makes an election under this paragraph, distributions will be made in accordance with Sections 4.04(b)(2) and 4.04(d)(2) of the Plan.

- (d) A designated Beneficiary who is receiving payments under the 5-year rule may make a new election to receive payments under the life expectancy rule until December 31, 2003, provided that all amounts that would have been required to be distributed under the life expectancy rule for all distribution calendar years before 2004 are distributed by the earlier of December 31, 2003, or the end of the 5-year period.
- (e) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (f) If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 4.04(b)(2), other than Section

4.04(b)(2)(A), will apply as if the surviving spouse were the Participant.

For purposes of this Section 4.04(b)(2) and Section 4.04(d), unless Section 4.04(b)(2)(F) applies, distributions are considered to begin on the Participant's required beginning date. If Section 4.04(b)(2)(F) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 4.04(b)(2)(A). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 4.04(b)(2)(A)), the date distributions are considered to begin is the date distributions actually commence.

- (3) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Sections 4.04(c) and 4.04(d) of this Section. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury regulations.

(c) Required Minimum Distributions During Participant's Lifetime

- (1) Amount of Required Minimum Distribution For Each Distribution Calendar Year. During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:
 - (a) the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or
 - (b) if the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.
- (2) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this Section 4.04(c) beginning with the first

distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(d) Required Minimum Distributions After Participant's Death

- (1) Death On or After Date Distributions Begin.
 - (a) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary, determined as follows:
 - (1) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
 - (2) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the

surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

- (3) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.
- (b) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the

age of the Participant in the year of death, reduced by one for each subsequent year.

(2) **Death Before Date Distributions Begin.**

(a) **Participant Survived by Designated Beneficiary.** Except as provided in Section 4.04(d)(2)(B), if the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 4.04(d)(1).

(b) Participants or beneficiaries may elect on an individual basis whether the 5-year rule or the life expectancy rule in Sections 4.04(b)(2) and 4.04(d)(2) of the Plan applies to distributions after the death of a Participant who has a designated Beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Section 4.04(b)(2) of the Plan, or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death. If

neither the Participant nor Beneficiary makes an election under this paragraph, distributions will be made in accordance with Sections 4.04(b)(2) and 4.04(d)(2) of the Plan.

- (c) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (d) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 4.04(b)(2)(A), this Section 4.04(d)(2) will apply as if the surviving spouse were the Participant.

(e) Definitions.

- (1) Designated Beneficiary. The individual who is designated as the Beneficiary under Section 1.03 of the Plan and is the designated

Beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.

- (2) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 4.04(b)(2). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.
- (3) Life expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.
- (4) Participant's account balance. The account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by

the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

- (5) Required beginning date. The date described in Treas. Reg. §1.457-6(d) and this Section 4.04 of the Plan.

4.05 Forms of Distribution. A Participant or Beneficiary may only elect a form of benefit distribution available under the Trust. If permitted under the Trust, a Participant or Beneficiary may elect distributions of benefits in one of the following forms:

- (a) Lump Sum. A single payment of the entire balance in a Participant's account.
- (b) Annuity. Periodic payments based on the life of the Participant or Beneficiary, or the joint lives of the Participant and his or her Beneficiary.
- (c) Installments. Periodic payments over a specific period of time.

4.06 Failure to Make Election. If a Participant or Beneficiary fails to elect a form of distribution before 30 days preceding the distribution commencement date, benefits shall be paid in a lump sum.

4.07 Direct Rollovers. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a "Distributee's" election under this Plan, a "Distributee" may elect, at the time and in the manner prescribed by the Trust or Custodial Account, to have any portion of an "Eligible Rollover Distribution" paid directly to an "Eligible Retirement Plan" specified by the "Distributee" in a "Direct Rollover".

For purposes of this Section,

- (a) "Eligible Rollover Distribution" is any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: (i) any hardship distribution, (ii) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated Beneficiary, or for a specified period of ten years or more; (iii) any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and (iv) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities). Clause (iv) shall not apply if the portion not includible in gross income is transferred in a direct transfer to a qualified trust which is part of a defined contribution plan where the accounting

requirements of Code Section 402(c)(2)(a) are met or to an individual retirement account or individual retirement annuity.

- (b) "Eligible Retirement Plan" is (i) an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state or any agency or instrumentality of a state or political subdivision of a state, or (ii) an individual retirement account described in Section 408(a) of the Code or an individual retirement annuity described in Section 408(b) of the Code (other than an endowment contract), or (iii) a 403(b) annuity plan, or a qualified plan described in Section 401(a) of the Code which agrees to separately account for amounts transferred into such plan from this Plan.
- (c) "Distributee" includes an Employee or former Employee. In addition, the employee's former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.
- (d) "Direct Rollover" is a payment by the plan to the eligible retirement plan specified by the distributee.

ARTICLE V - MISCELLANEOUS

5.01 Amendment and Termination. This Plan may be amended or terminated by the Employer at any time. No amendment or termination of the Plan shall reduce or impair the right of any Participant or his Beneficiary which have already accrued unless applicable law provides otherwise. Upon the termination of the Plan, the Employer shall distribute all amounts credited to each Participant in accordance with the Participant's payment option selected. All Participants shall be treated in the same manner.

5.02 Plan-To-Plan Transfers. A Participant shall not be required to include in gross income any amounts transferred from one eligible deferred compensation plan to another eligible deferred compensation plan if all applicable requirements are met.

5.03 Purchase of Governmental Defined Benefit Plan Service Credit. To the extent permitted under Code Section 457(e)(17) of the Code, a Participant may request a trustee-to-trustee transfer from his/her Account to a governmental defined benefit pension plan for the purchase of permissive service credit (as defined in Section 415(n)(3)(A) of the Code) under such plan, or for the purpose of a repayment to which Section 415 of the Code does not apply by reason of subsection (k)(3) thereof.

5.04 Creditors and Qualified Domestic Relations Orders. A Participant may not assign, transfer, sell, hypothecate, or otherwise dispose of any or all of his interest or right which he may have under the Plan, and any attempt to do so shall be void. However, the Plan will comply with any judgment, decree or order which establishes the rights of another person to all or a portion of a Participant's Account under this Plan to the extent that it is treated as a "qualified domestic relations order" under Code Section 414(p)(11) and (12).

Upon receipt by the Administrator of any judgment, decree, order or approved property settlement agreement made pursuant to domestic relations law of the State of Michigan which relates to the provision of child support, alimony payments or marital property rights to a spouse, former spouse, child or other dependent of a Participant, the Administrator shall notify the Participant and any alternate payee of receipt of such order, as well as the Plan's procedure for determining the status of the qualified domestic relations order. Further, upon receipt of such order, the Administrator shall separately account for amounts within the Plan which would have been payable to the alternate payee during the period in which the issue of the status of the order is being determined as if the order had been determined to be a qualified domestic relations order.

The notice to the Participant and any alternate payee of receipt of the order shall be sent by mail to each party at the address of such party included in the domestic relations order within 20 days after receipt by the Administrator. Such notice shall permit the alternate payee and the Participant to designate a representative for receipt of copies of notices that are sent to the parties with respect to such order.

Within 45 days after sending the notice of receipt of the order to the parties, the Administrator shall give written notice of the determination of the status of the domestic relations order or give written notice that the Administrator is not able to determine such status of the order. If the Administrator has made a determination of the status of the order, the Participant or alternate payee may file written objections to the determination and a request for review within 45 days after receiving notification. At such review, each party may present facts, authority or any relevant information setting forth the reason for objection to the

determination. The Administrator shall give written notice to the parties within 45 days after the conclusion of the review herein. If the Participant or alternate payee does not file written objection and request for review within 45 days of receipt of the first determination, the Administrator shall proceed to direct the Trustee to distribute and/or administer his or her segregated account, plus interest thereon, in accordance with the terms herein below set forth.

In the event the Administrator, for any reason, determines a decision cannot be made within the procedures set forth in the Plan, the Administrator may commence an interpleader action in the Federal District Court for the district in which the principal office of the Employer is located. If the Administrator determines the order to be a qualified domestic relations order within 18 months of receipt of such order, the Administrator shall direct the Trustee to pay the segregated amounts, plus interest thereon, to the person or persons entitled thereto. On the other hand, if, within 18 months, it is determined that the order is not a qualified domestic relations order, or the issue as to whether such order is a qualified domestic relations order is not resolved, then the Administrator shall direct the Trustee to pay or administer the segregated amounts, plus interest thereon, as if there had been no order.

For purposes of this section, a "qualified domestic relations order" means any judgment, decree, order or approval of a property settlement agreement which is made pursuant to the laws of the State of Michigan which relates to the provision of child support, alimony payments or property settlement rights to a spouse, former spouse, child or other dependent of a Participant and clearly specifies:

- (a) the name and last mailing address of the Participant and alternate payee covered by the order;

- (b) the amount or percentage of a Participant's benefits to be paid by the Plan to each alternate payee, or the manner in which such amount or percentage is to be determined;
- (c) the number of payments or period to which such order applies; and
- (d) each plan to which such order applies, and, further, such order does not require:
- (e) the Plan to provide any type or form of benefit, or any option, not otherwise provided under the Plan;
- (f) the Plan to provide increased benefits; and
- (g) the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.

For purposes of this section, "alternate payee" means any spouse, former spouse, child or other dependent of a Participant who is recognized by a domestic relations order as having a right to receive all, or a portion of, the benefits payable under the Plan with respect to such Participant.

5.05 Employment. Participation in the Plan shall not be construed as giving any Participant any right to continued employment or reemployment with the Employer.

5.06 Successors and Assigns. The Plan shall be binding upon and shall inure to the benefits of the Employer, its successors and assigns, all Participants and Beneficiaries and their heirs and legal representatives.

5.07 Written Notice. Any notice or other communication required or permitted under the Plan shall be in writing, and if directed to the Employer shall be sent to the designated office of the Employer and, if directed to a Participant or to a Beneficiary, shall be sent to such Participant or Beneficiary at his last known address as it appears on the Employer's records.

5.08 Total Agreement. This Plan, the Participation Agreement, the Trust or Custodial Account and Authorized Investment Representative Agreement and any subsequently adopted amendment thereof, shall constitute the total agreement or contract between the Employer and the Participant regarding the Plan. No oral statement regarding the Plan may be relied upon by the Participant.

LAPEER COMMUNITY SCHOOLS

Dated: _____

By: _____
Its: _____