

## SEVERANCE AGREEMENT

This Severance Agreement ("Agreement") is made and entered into by and between Scottsdale Unified School District #48, a political subdivision of the State of Arizona, located in Maricopa County ("the District") and Dr. A. Denise Birdwell, Superintendent in the District ("Superintendent").

WHEREAS, Superintendent is currently employed by the District pursuant to a 2017-2019 Superintendent Contract, which was accepted by Superintendent on or about December 13, 2016, with an effective end date of June 30, 2019;

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained, Superintendent and the District hereby agree as follows to mutually sever the employment relationship between the parties prior to the termination date of the 2017-2019 Superintendent Contract:

1. Resignation. Superintendent hereby voluntarily and irrevocably resigns from her employment with the District effective at the end of the work day on April 12, 2018, contingent on the District executing this Agreement prior to that date. Superintendent understands and agrees that upon acceptance of her resignation by the District, she will have waived all rights she has to continued and future employment with the District. The District will pay Superintendent all wages owed through April 12, 2018, including her final paycheck for her salary in arrears.
  
2. Severance Pay, Benefits, Waiver of Liquidated Damages. In consideration for Superintendent's waiver, release and discharge of all claims set forth in paragraph 5 below, Superintendent shall be entitled to receive the following from the District:
  - a. Severance Payment. The District shall provide Superintendent with a severance payment in the amount of One Hundred Fifty Thousand Dollars (\$150,000.00), (minus mandatory and any voluntary deductions), in a lump sum payment, payable within fourteen (14) calendar days from the date this Agreement is fully executed by the parties.
  
  - b. Medical/Dental/Vision/AFLAC Benefits. (1) The District shall pay Superintendent's insurance and supplemental benefits on the same basis the District is currently paying for those benefits through April 30, 2018; (2) The District shall reimburse Superintendent for the actual cost of maintaining her health insurance benefits through COBRA between May 1, 2018 and June 30, 2018, should she apply for and utilize COBRA benefits; and (3) The District shall reimburse Superintendent the actual cost of maintaining her dental and vision coverage, in an amount not to exceed One Thousand Dollars (\$1,000.00) thru June 30, 2018. The District shall reimburse Superintendent for amounts owed pursuant to this

paragraph within twenty-one (21) calendar days from the date Superintendent submits proof of payment of these expenses to the District.

- c. Indemnity, and Professional Liability Coverage. The terms of Sections 12 and 13 of the 2017-2019 Superintendent Contract shall remain in force and effect notwithstanding the terms of this Agreement, and this Agreement shall neither enlarge or reduce the scope and terms of said Sections 12 and 13.

Superintendent understands and agrees that she shall not be entitled to receive any other monetary or in-kind compensation or employment benefits beyond that provided for in this Paragraph 2, above.

3. Future Access to District / School Personnel, Students and Property. Superintendent understands and agrees that upon submission of this Agreement and her letter of resignation, for a period of six (6) months, she shall not initiate contact with any District governing board member, District personnel or students during school or working hours or enter or remain on any District owned property at any time, without prior written approval of the District's General Counsel (currently Michelle Marshall). Superintendent may contact the District's General Counsel should the need arise, to obtain assistance pertaining to Superintendent's resignation or any provision of this Agreement.
4. Waiver, Release and Discharge of All Claims. In exchange for the District's promises, agreements and payments made to Superintendent, as set forth herein, the Superintendent and the District hereto agree as follows:
  - a. Except as otherwise provided in paragraph 4(d) below, Superintendent hereby releases, acquits, and forever discharges the District, as well as the District's past and present Governing Board members, successors, agents, employees, attorneys and insurers, from and with respect to any and all claims, wages, agreements, obligations, demands and causes of action, known or unknown, suspected or unsuspected, arising out of or in any way connected with Superintendent's employment relationship with the District. The release given by Superintendent includes, without limiting the generality of the foregoing, the discharge of any and all claims for wages, severance pay, bonus or similar benefits, sick leave, retirement benefits (other than the severance benefits provided by this Agreement, worker's compensation, COBRA and Arizona State Retirement System benefits), vacation, life insurance, health or medical insurance, or any other fringe benefit, or any other occurrences, acts or omissions whatever, known or unknown, suspected or unsuspected, resulting from any act or omission by or on the part of the District committed or omitted prior to the date of this Agreement. In addition, this Release given by Superintendent includes, without limiting the generality of the foregoing, the release and discharge of any claim under Title VII of the Civil Rights Act of 1964, the

Older Workers Benefits Protection Act (OWBPA), the Age Discrimination and Employment Act (ADEA), the Americans With Disabilities Act, the Family and Medical Leave Act, or any other federal, state or local regulation or ordinance.

- b. The District (including the Governing Board) hereby releases, acquits, and forever discharges Superintendent and her successors, agents, attorneys and insurers, from and with respect to any and all claims, wages, agreements, obligations, demands and causes of action, known or unknown, suspected or unsuspected, through the date that the District executes this Agreement, including, without limitation, all such claims arising out of or in any way connected with Superintendent's employment relationship with the District.
  - c. Except to enforce the terms of this Agreement, the parties shall not file or otherwise initiate a claim, lawsuit or any other legal proceeding against the other, or any of those individuals or entities identified in paragraph 4(a), asserting claims released in paragraph 4(a). In the event of a breach of this provision, the prevailing party shall be liable for all costs, including reasonable attorneys' fees, incurred by the District in defending such claims or actions.
  - d. Notwithstanding the foregoing, it shall not be a breach of this Agreement for the Parties to make any reports or disclosures or otherwise cooperate with any federal or state agencies and/or as required of them by contract or under federal or state laws.
6. No Admission of Wrongdoing. This Agreement does not constitute an admission that either Party to this Agreement has violated any federal, state, or local statute, ordinance, regulation, rule of decision, or principle of common law, or that either Party has engaged in any improper or unlawful conduct or wrongdoing.
7. Legal Representation. The Parties acknowledge that they have had the opportunity to be represented by their own attorney(s) in this matter and have had a full opportunity and a reasonable time to consider and consult with their respective attorney(s) concerning this Agreement before deciding whether to sign it. The Parties to this Agreement agree to pay their own attorney's fees and costs incurred in connection with this Agreement.
8. Statements by Employer. Superintendent acknowledges that in deciding whether to sign this Agreement, she has not relied upon any statements, representations, or promises made by the District, other than the statements made in this Agreement.
9. Authority. The Parties represent and warrant that they have the authority to enter into this Agreement.

10. Invalidity. If a court of competent jurisdiction determines that any provision of this Agreement is invalid, illegal, or unenforceable in any respect, such a determination will not affect the validity, legality, or enforceability of the remaining provisions of this Agreement and the remaining provisions of this Agreement will continue to be valid and enforceable.
11. Third-Party Beneficiaries. Nothing in this Agreement will be construed to give any rights or benefits in this Agreement to anyone other than Superintendent and the District. All duties and responsibilities undertaken under this Agreement will be for the sole and exclusive benefit of Superintendent and the District, and not for the benefit of any other party.
12. No Rule of Strict Construction. The Parties have approved the language of this Agreement, and no rule of strict construction will be applied against either party.
13. Entire Agreement. The Parties intend for this Agreement to define the full extent of their legally enforceable undertakings. The Parties do not intend that any representations or statements made in any prior conversations, discussions, negotiations, correspondence, or writings between them be legally enforceable, and this Agreement supersedes all other agreements and understandings between them relating to the subject matter of this Agreement.
14. Modification or Waiver of Agreement. No modification or waiver of this Agreement will be valid unless the modification or waiver is in writing and signed by the parties. The failure of either party at any time to insist upon the strict performance of any provision of this Agreement will not be construed as a waiver of the right to insist upon the strict performance of the same provision at any future time.
15. Headings. The descriptive headings of the paragraphs and subparagraphs of this Agreement are intended for convenience only, and do not constitute part of this Agreement.
16. Governing Law. This Agreement will be construed in accord with, and any dispute or controversy arising from any breach or asserted breach of this Agreement will be governed by, the laws of the State of Arizona.
17. Time to Consider Agreement/Right to Revoke. Having consulted with her own counsel, Superintendent has been aware of her rights, including those under the Older Workers Benefit Protection Act, and understands and agrees that:
  - a. She has been offered a period of at least twenty-one (21) days within which to consider this Agreement before executing it, and has waived that opportunity after a fair period to review and consider this Agreement;
  - b. She has carefully read and fully understands all the provisions of this Agreement and has agreed to accept all the terms contained herein without any pressure or coercion by the Employer;

- c. She has knowingly and voluntarily agreed to all the terms set forth in this Agreement and intends to be legally bound by the Agreement; and
- d. Superintendent understands that she has the right to revoke this Agreement for any reason within seven (7) calendar days after she signs it by sending a written notice to Michelle Marshall, SUSD General Counsel, 8500 E. Jackrabbit Rd., Scottsdale AZ 85250. Superintendent understands that this Agreement will not become effective or enforceable unless and until she has not revoked it and the applicable revocation periods have expired.

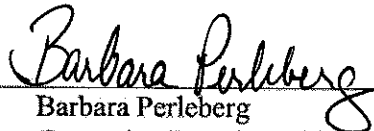
The Parties have executed this Agreement on the dates indicated below and represent that they understand this Agreement and have entered it freely and voluntarily and agree that it is supported by good and valuable consideration. This Agreement shall become effective only upon Governing Board approval at a properly noticed Governing Board meeting.

**Superintendent:**

  
Dr. A. Denise Birdwell

April 5, 2018

**Scottsdale Unified School District #48:**

By:   
Barbara Perleberg  
Governing Board President

April 6<sup>th</sup>, 2018