

August 18, 2023

VIA HAND DELIVERY

Dr. Michael Morris
Superintendent of Schools
30 Bridle Path
Amherst, MA 01002

Re: Separation Agreement and Release

Dear Dr. Morris:

This letter summarizes the terms of your separation from employment with the Amherst-Pelham Regional School District, Amherst Public Schools and Pelham Public Schools (the “Districts”), through their respective School Committees and the Union #26 School Committee (“Committees”). The purpose of this Separation Agreement and Release (the “Agreement”) is to establish a mutually agreeable arrangement for ending your employment relationship, to release the Districts from any claims and to permit you to receive severance pay and related benefits. With these understandings and in exchange for the promises by you and the Districts as set forth below, you and the Districts agree as follows.

1. Employment Status and Final Payments:

(a) Your separation from employment with the Districts will be effective as of August 31, 2023 (the “Separation Date”). Between the date of execution of this Agreement and August 31, 2023, you shall be responsible for transitioning your duties to an individual(s) identified by the Committees and shall not be required to appear in the office after August 21, 2023 or attend meetings of the Committees and their subcommittees. As of the Separation Date, your salary will cease, and any entitlement you have or might have under a District-provided benefit plan, program, contract or practice will terminate, except as required by federal or state law, or as otherwise described below.

(b) You acknowledge that as of the Separation Date, you will have 54 days of vacation leave and that you will be paid for such accrued and unpaid vacation leave as of the Separation Date.

(c) The Separation Date shall be the date of the “qualifying event” under the Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”), and the Districts will present you with information on COBRA under separate cover.

2. Consideration: In exchange for, and in consideration of, your full execution of this Agreement, the Districts agree as follows:

(a) Severance Pay: The Districts will pay you severance payments for a period of ten (10) months (the "Severance Period") following the Separation Date at your current bi-weekly gross base salary rate of Six Thousand Eight Hundred Sixty-Eight Dollars and Sixty-Nine (\$6,868.69)¹, less applicable taxes and withholdings.

(b) Health/Dental Insurance: You have the option to elect to continue health and dental insurance coverage in accordance with the provisions of COBRA, or you may elect to enroll in health insurance coverage through an "Exchange" under the Affordable Care Act. You are advised to seek your own legal counsel and/or benefits advisor to assist you in determining whether to elect coverage under COBRA or through an Exchange. If you elect to continue medical and dental insurance coverage after the Separation Date in accordance with the provisions of COBRA, the Districts' will subsidize the cost of your monthly health and dental insurance premiums at a rate equal to the rate at which the District's contribute toward such premium costs for employees for ten (10) months or upon the date on which you become eligible for employer-provided health coverage if you shall become eligible for employer-provided health coverage earlier than ten (10) months.

(c) Payments: The payment set forth in this Section 2 shall be subject to all applicable federal, state and/or local withholding and/or payroll taxes.

(d) Tax Advice: You acknowledge that neither the Districts nor its counsel has advised you regarding the taxability of any monies payable to you under this Agreement. You are advised to consult with your own counsel and/or tax advisor as to the specific tax consequences of any payments made under this Agreement.

3. Mutual Release: In exchange for the consideration described in Section 2, which is in addition to anything of value to which you are entitled to receive, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, you and your representatives, agents, estate, heirs, successors and assigns, absolutely and unconditionally hereby release, remise, discharge, indemnify and hold harmless the Districts Releasees (defined to include the Districts, their School Committees, the Union #26 School Committee and the municipalities of Amherst and Pelham, Massachusetts and/or any of its current and future school committees members, and any and all of their officials, employees, attorneys and/or agents, all both individually and in their official capacities), from any and all actions or causes of action, suits, claims, grievances, complaints, contracts, liabilities, agreements, promises, torts, debts, damages, controversies, judgments, rights and demands, whether existing or contingent, known or unknown, suspected or unsuspected, including but not limited to those which arise out of your employment with, change in employment status with, and/or separation of employment from, the Districts. This release is intended by you to be all encompassing and to act as a full and total release of any claims, whether specifically enumerated herein or not, that you may have or have had against the Districts Releasees arising from conduct occurring up to and through the date of this Agreement, including, but not limited to, any claims arising from any federal, state or local law, regulation or

¹ Based on your annual gross salary as of the date of this Agreement, which is \$178,586.

constitution dealing with either employment, employment benefits or employment discrimination such as those laws or regulations concerning discrimination on the basis of race, color, creed, religion, age, sex, sex harassment, sexual orientation, pregnancy, gender identity, transgender status, national origin, ancestry, genetic carrier status, handicap or disability, veteran status, any military service or application for military service, or any other category protected under federal or state law, including any form of retaliation; any contract, whether oral or written, express or implied, including without limitation, any letter offering employment or contract for employment; any tort; any claim for equity or other benefits; or any other statutory and/or common law claim. You not only release and discharge the Districts Releasees from any and all claims as stated above that you could make on your own behalf or on behalf of others, but also those claims that might be made by any other person or organization on your behalf, and you specifically waive any right to recover any damage awards as a member of any class in a case in which any claim(s) against the Districts Releasees are made involving any matters.

This release is mutual and reciprocal. The Districts hereby Release you from any and all actions, claims, or causes of action, etc., as defined above, arising out of your employment as Superintendent of the Districts to the same extent as you releases the Districts as set out above.

Without in any way limiting the Release herein, you also specifically release, remise, discharge, indemnify and hold harmless the Districts Releasees from any claims for back wages, salary, vacation pay, incentive pay and any and all other forms of compensation, attorney's fees, or other costs or sums that arise or may arise under the Massachusetts Wage Act, including without limitation, M.G.L. c. 149, §§ 105A, 148 and 150, and M.G.L. c. 151.

This Release does not apply to claims for workers' compensation benefits, unemployment insurance benefits or any other claim that cannot lawfully be waived by this Agreement.

This Release does not apply to any claims arising solely after the execution of this Agreement or to any claims arising from a breach of this Agreement.

Notwithstanding the foregoing, nothing in this Agreement shall bar or prohibit you or the Committees' from contacting, filing a charge or complaint with, seeking assistance from or participating in any proceeding before any federal or state administrative agency to the extent permitted by applicable federal, state and/or local law. However, you and the Committees' nevertheless will be prohibited to the fullest extent authorized by law from obtaining monetary damages or other personal relief in any agency proceeding in which you do so participate.

4. Accord and Satisfaction: The payments set forth herein shall be complete and unconditional payment, settlement, accord and/or satisfaction with respect to all obligations and liabilities of the Districts Releasees to you, including without limitation, all claims for back wages, salary, vacation pay, severance pay, reimbursement of

expenses, any and all other forms of compensation or benefits, attorney's fees, or other costs or sums.

5. Medicare Status and Satisfaction of Any Medicare Reimbursement Obligations:

You represent and warrant that you are not and have not been enrolled in the Medicare program, and have not received Medicare benefits for medical services or items related to, arising from, or in connection with any accident, occurrence, injury, illness, disease, loss, claim, demand, or damages that are subject to this Agreement and releases herein (collectively, the "Released Matters").

You agree to indemnify and hold harmless the Districts Releasees from any and all claims, demands, liens, subrogated interests, and causes of action of any nature or character that have been or may in the future be asserted by Medicare and/or persons or entities acting on behalf of Medicare, or any other person or entity, arising from the payment of the Consideration described in Section 2, any payments made by Medicare, or any medical expenses or payments arising from or related to any Released Matters that are subject to this Agreement or the release set forth herein, including but not limited to: (a) all claims and demands for reimbursement of any payments or for damages or double damages based upon any failure to reimburse Medicare; and (b) all claims and demands for penalties based upon any failure to report, late reporting, or other noncompliance with or violation of Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (P.L. 110-173) ("MMSEA"). This indemnification obligation includes all damages, double damages, fines, penalties, attorneys' fees, costs, interest, expenses, and judgments incurred by or on behalf of the Districts Releasees in connection with such claims, demands, subrogated interests, or causes of action.

6. Districts Files, Documents and Other Property: You agree that on or before August 31, 2023, you will return to Districts all property and materials of the Districts, including but not limited to, (if applicable) educational materials, computers, laptops, scanners, copiers, cellular phones, manuals, building keys and passes, digital storage devices, intangible information stored on digital storage devices, software programs and data compiled with the use of those programs, software passwords or codes, tangible copies of trade secrets and confidential information, names and addresses of students, memoranda, marketing material, marketing plans, reports, projections, Districts-related e-mail (whether on Districts or personal e-mail accounts), and any and all other information or property previously or currently held or used by you that is or was related to your employment with the Districts ("Districts Property"). You represent that you have not and will not take by download or otherwise any Districts Property. You agree that in the event that you discover any Districts Property in your possession, whether in electronic form or otherwise, after August 31, 2023, you will immediately return such materials to the Districts. The District will preserve and make available to you all electronic files relating to pending grievances with any employee or employee organization, claims of violations of law or contract of any nature, complaints in any forum, e.g. administrative or judicial, and any other matter in which you are required by law, this Agreement or the needs of the Districts as necessary to prepare for same. Said access shall begin August

31, 2023 via secure internet or email access and is not intended to provide broad or system wide access to you.

7. **No Liability or Wrongdoing:** Nothing in this Agreement, nor any of its terms and provisions, nor any of the negotiations or proceedings connected with it, constitutes, will be construed to constitute, will be offered in evidence as, received in evidence as, and/or deemed to be evidence of, an admission of liability or wrongdoing by any and/or all of the Districts Releasees or you, and any such liability or wrongdoing is hereby expressly denied by each of the Districts Releasees and you.

8. **Future Conduct:**

(a) **Mutual Nondisparagement and Joint Statement:** You and the Committees, collectively or through their individual members, agree not to make disparaging, critical or otherwise detrimental comments to any person or entity concerning the other or the circumstances surrounding your employment and/or separation of employment from the Districts, except as to those individuals providing a reference at your request, and mutually agree to issue the Joint Statement set forth in Attachment A to this Agreement.

(b) **Disclosures:** Nothing herein shall prohibit or bar you or any member of the Committees' from providing truthful testimony in any legal proceeding or in communicating with any governmental agency or representative or from making any truthful disclosure required, authorized or permitted under law; provided, however, that in providing such testimony or making such disclosures or communications, you and the Committees will use their best efforts to ensure that this Section is complied with to the maximum extent possible.

(c) **Non-Disclosure of Confidential Information:** You agree that you shall keep confidential all matters entrusted to you as an employee of the Districts and shall not rely upon, use or attempt to use, or disclose or attempt to disclose, any confidential, proprietary or trade secret information, including confidential information related to third parties which the Districts are obligated to maintain as confidential, to any person or entity.

(d) **Indemnification.** Notwithstanding any other provision in this Agreement, the Districts shall indemnify you against any and all claims on the same terms as indemnification is available to all public employees pursuant to M.G. L. c. 258, and any optional coverages thereunder as adopted or accepted by the Districts. As required by c. 258, you have a duty to reasonably cooperate in the defense of any claim and will be provided counsel by the Districts or the Districts' insurer(s) at no cost to you in the defense thereof. Should your cooperation and assistance require your participation in any activity connected to such litigation, you shall be compensated at a per diem rate in full-day or half-day increments at a rate of \$700 per day.

9. **Representations and Governing Law:**

(a) This Agreement sets forth the complete and sole agreement between the parties and supersedes any and all other agreements or understandings, whether oral or

written between you and the Districts. This Agreement may not be changed, amended, modified, altered or rescinded except upon the express written consent of both the Committees and you.

(b) If any provision of this Agreement, or part thereof, is held invalid, void or voidable as against public policy or otherwise, the invalidity shall not affect other provisions, or parts thereof, which may be given effect without the invalid provision or part. To this extent, the provisions and parts thereof of this Agreement are declared to be severable. Any waiver of any provision of this Agreement shall not constitute a waiver of any other provision of this Agreement unless expressly so indicated otherwise. The language of all parts of this Agreement shall in all cases be construed according to its fair meaning and not strictly for or against either of the parties.

(c) This Agreement and any claims arising out of this Agreement (or any other claims arising out of the relationship between the parties) shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts and shall in all respects be interpreted, enforced and governed under the internal and domestic laws of Massachusetts, without giving effect to the principles of conflicts of laws of such state. Any claims or legal actions by one party against the other shall be commenced and maintained in a state or federal court located in Massachusetts, and you hereby submit to the jurisdiction and venue of any such court.

(d) You may not assign any of your rights or delegate any of your duties under this Agreement. The rights and benefits of this Agreement shall inure to the benefit of the Districts' successors and assigns.

10. Compliance with Section 409A of the IRS Code: This Agreement is intended to comply with the requirements of Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"), and shall be interpreted and construed consistently with such intent. The payments to you pursuant to this Agreement are also intended to be exempt from Section 409A of the Code to the maximum extent possible, under either the separation pay exemption pursuant to Treasury Regulation Section 1.409A-1(b)(9)(iii) or as short-term deferrals pursuant to Treasury Regulation Section 1.409A-1(b)(4). None of the Districts Releasees shall be liable to you for any tax, interest, or penalties you may owe as a result of compensation paid to you under this Agreement, and the Districts Releasees shall have no obligation to indemnify or otherwise protect you from the obligation to pay any taxes or penalties to which you may be subject under Section 409A. If the terms of this Agreement would subject you to taxes or penalties under Section 409A, the Districts and you shall cooperate to amend the terms of this Agreement to avoid such Section 409A penalties to the extent possible, without the Districts incurring any additional payment obligation of any kind. To the extent any amounts under this Agreement are payable by reference to your "separation of employment," such term shall be deemed to refer to your "separation from service," within the meaning of Section 409A.

Any reimbursement or advancement payable to you pursuant to this Agreement shall be conditioned on the submission by you of all expense reports reasonably required

by the Districts under any applicable expense reimbursement policy, and shall be paid to you promptly following receipt of such expense reports, but in no event later than the last day of the calendar year following the calendar year in which you incurred the reimbursable expense. Any amount of expenses eligible for reimbursement, or in-kind benefit provided, during a calendar year shall not affect the amount of expenses eligible for any reimbursement, or in-kind benefit to be provided, during any other calendar year. The right to any reimbursement or in-kind benefit pursuant to this Agreement shall not be subject to liquidation or exchange for any other benefit.

It is intended that each installment of the severance payments and benefits shall be treated as a separate "payment" for purposes of Section 409A and the guidance issued thereunder. Neither you nor the Districts have the right to accelerate or defer the delivery of any such payments or benefits except to the extent specifically permitted or required by Section 409A.

Each payment and benefit payable under this Agreement is intended to constitute a separate payment under Treasury Regulation Section 1.409A-2(b)(2).

Notwithstanding anything herein to the contrary, the Districts shall have no liability to you or to any other person if the payments and benefits provided in this Agreement that are intended to be exempt from or compliant with Section 409A are not so exempt or compliant.

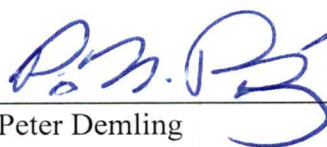
If this letter correctly states the agreement and understanding we have reached, please indicate your acceptance by countersigning the enclosed copy and returning it to the Districts.

Very truly yours,

Amherst-Pelham Regional School Committee

By: 
Ben Herrington, Chair

Union #26 School Committee

By: 
Peter Demling

I REPRESENT THAT I HAVE READ THE FOREGOING AGREEMENT, THAT I FULLY UNDERSTAND THE TERMS AND CONDITIONS OF SUCH AGREEMENT AND THAT I AM KNOWINGLY AND VOLUNTARILY EXECUTING THE SAME. IN ENTERING INTO THIS AGREEMENT, I DO NOT RELY ON ANY REPRESENTATION, PROMISE OR INDUCEMENT

**MADE BY THE DISTRICTS OR ITS REPRESENTATIVES WITH THE
EXCEPTION OF THE CONSIDERATION DESCRIBED IN THIS DOCUMENT.**

Accepted and Agreed to:



Dr. Michael Morris

Date: 8-18-23

ATTACHMENT A

JOINT STATEMENT

The Union #26 and Regional School Committees and Mike Morris have reached a mutual agreement to part ways, ending Dr. Morris' seven year tenure in the role of Superintendent. This change in leadership is not due to any wrongdoing on Mike's part. The last seven years have seen many successes in our three school districts, such as the creation of the Caminantes Dual Language Program and success of the current School Building Project in the Amherst Public Schools; the stabilization of a dire budget situation and increased student enrollment in Pelham; the effective change in start times to align with research for Regional School students; and increased diversity of staff across all districts.

The Committees wish him well in the future. Mike appreciates the support he has received from the Committees and the many staff and community members who have reached out to him over the past several months. He will remain available to assist the district in any way requested by his successor.

Dr. Morris has agreed to continue to run the day-to-day operation of the districts through the end of the month to provide the School Committees sufficient time to select a successor and to ensure a smooth transition.