

## RESIGNATION AGREEMENT

This Resignation and all of its Attachments ("Resignation Agreement") is made by and between Adam Provost of Colchester, Vermont and the Burlington School District, a Department of the City of Burlington, Vermont, a City organized as a municipality under Vermont (hereinafter "District"), and is effective as of the expiration of the Revocation Periods specified below in Section I A and B below (absent revocation) (the "Effective Date").

WHEREAS, The District is investigating claims against Provost;

WHEREAS, Provost asserts that the District's investigation violated his due process rights, including, among other things, as the result of a conflict of interest that was previously unknown to the District;

WHEREAS, the District is suspending the investigation to evaluate the asserted conflict of interest and determine its options;

WHEREAS, no findings or conclusions have been made as a result of the investigation;

WHEREAS, Provost is suffering from medical conditions that have necessitated him being on medical leave for the last twelve weeks;

WHEREAS, Provost desires to resign his employment for medical reasons; and

WHEREAS, subject to the terms and conditions of this Resignation Agreement, the parties hereby establish terms and conditions for Provost's resignation from employment with the District;

NOW THEREFORE, in consideration of the foregoing premises and the mutual promises, terms, provisions and conditions set forth in this Resignation Agreement, the parties hereby agree:

### **I. CONSIDERATION TO DISTRICT**

- A. **RESIGNATION AGREEMENT.** Provost acknowledges that he currently works for the District under an Administrator's Contract as an Interim Director for a one year period ending June 30, 2018. Provost acknowledges and agrees that he has been provided twenty-one (21) days to consider this Resignation Agreement including the Waiver and General Release of Claims ("Waiver and Release"). Provost understands that for a period of seven (7) days from his execution of the Resignation Agreement, he has the right to revoke the Resignation Agreement ("Resignation Revocation Period"). Provost has been advised to consult with an attorney regarding whether to execute the Resignation Agreement and he acknowledges that he has done so.

In order for Revocation of the Resignation Agreement to be effective, Provost must deliver to Superintendent Yaw Obeng at 150 Colchester Avenue, Burlington, Vermont, 05401 written notice of his intent to revoke the Resignation Agreement. Such written notice must be received on or before the close of business day (4:30 p.m.) on the seventh day following his execution of this Resignation Agreement and its Attachments. Should Provost effectively revoke the Resignation Agreement, the entire Resignation Agreement, including all Attachments shall be void.

- B. **WAIVER AND RELEASE.** Provost shall execute the Waiver and General Release that is attached to this Resignation Agreement as Attachment A. Provost acknowledges and agrees that he has been provided twenty-one (21) days to consider the Waiver and Release. Provost understands that for a period of seven (7) days from his execution of the Waiver and Release, he has the right to revoke the Waiver and Release Agreement ("Waiver and Release Revocation Period"). Provost has been advised to consult with an attorney regarding whether to execute the Waiver and Release and he acknowledged that he has done so.


In order for Revocation of the Waiver and Release to be effective Provost must deliver to Superintendent Yaw Obeng at 150 Colchester Avenue, Burlington, Vermont, 05401 written notice of his intent to revoke the Waiver and Release. Such written notice must be received on or before the close of business day (4:30 p.m.) on the seventh day following his execution of this Waiver and Release. Should Provost effectively revoke the Waiver and Release, the entire Resignation Agreement, including all Attachments shall be void.

- C. **LETTER OF RESIGNATION.** Provost agrees to voluntarily execute a non revocable letter of resignation from his District employment for medical reasons, which shall be addressed to Superintendent Yaw Obeng effective January 2, 2018 as more fully described in Attachment B hereto.
- D. **FUTURE DISTRICT ACTION LEGALLY REQUIRED.** It is understood that any action taken by the District to comply with its legal obligations shall not be a violation of this Resignation Agreement. Should the District believe action is required that will result in the release of documents pertaining to the investigation, including this Agreement, to the public, the Superintendent or his designee will notify Provost's attorney, Heather Ross, Esq., of the requirement within one (1) business day of its receipt by notice sent to Ms. Ross at the following address, [hross@sheeheyvt.com](mailto:hross@sheeheyvt.com) and Sheehey Furlong & Behm, P.C., 30 Main Street, P.O. Box 66, Burlington, Vermont 05402. For these purposes, the Agency of Education of the State of Vermont ("AOE") is not the "public".

## II. CONSIDERATION TO PROVOST

- A. **INVESTIGATION.** As of the Effective Date of this Agreement, the District will suspend its investigation into the claims made against Provost in order to

evaluate the asserted conflict of interest and determine its options. The District, however, reserves the right to continue or restart its investigation should an administrative or regulatory agency, such as the Agency of Education of the State of Vermont ("AOE"), so require. In addition, the parties understand that the AOE is aware of this matter. In the event the AOE or another agency requires the District to take further action regarding the investigation of claims against Provost, the Superintendent or his designee will notify Provost's attorney, Heather Ross, Esq., of the requirement within one (1) business day of its receipt by notice sent to Ms. Ross at the following address, [hross@sheeheyvt.com](mailto:hross@sheeheyvt.com) and Sheehey Furlong & Behm, P.C., 30 Main Street, P.O. Box 66, Burlington, Vermont 05402. Documents that were or will be generated in the course of the investigation, including the Resignation Agreement (but not the resignation letter) will be maintained in a sealed envelope titled "Confidential -Need to Know Only - Contact Superintendent."

- B. **PAYMENT.** The District shall pay to Provost in the total gross amount of the month of January's salary: seven thousand seven hundred eight dollars and thirty-three cents (\$7,708.33) minus any and all taxes contributions and deductions. Provost acknowledges that he has been paid this amount. Should Provost revoke any aspect of the Resignation Agreement he shall reimburse the District seven thousand seven hundred eight dollars and thirty-three cents (\$7,708.33) minus any and all taxes contributions and deductions. 
- C. **BENEFITS CONTINUATION.** Provost's current District provided benefits, including but not limited to, health and dental, will terminate as of January 31, 2018. Thereafter, Provost may elect to utilize medical coverage pursuant to COBRA for the District's health insurance and dental insurance solely at his own expense. Any such continued coverage is dependent upon and shall be consistent with the terms and conditions of COBRA and the District's insurance policies for those benefits.
- D. **WAIVER AND RELEASE.** The District shall execute the Waiver and General Release that is attached to this Resignation Agreement as Attachment C.
- E. **INQUIRIES FROM FUTURE EMPLOYERS.** As is the current District Policy, in response to inquiries from potential Provost employers, the District will only release the dates the District employed Provost and the positions he held.
- F. **NO OTHER CONSIDERATION.** Provost incurred \$1,770 in tuition bills for the 2017-18 school year for which he will be reimbursed under the Burlington Administrators' Association Contract and such payment shall be made within seven business days of the Effective Date. Provost and the District agree that no further consideration is due to Provost other than that which is specifically set forth in this Agreement. Provost acknowledges that the above consideration and that stated in Section III, Mutual Consideration, is more than he would be entitled to in the absence of this Resignation Agreement.

### III. MUTUAL CONSIDERATION

- A. **CONFIDENTIALITY.** Neither Superintendent Obeng, Senior Director of Human Resources and Equity Affairs, Nikki Fuller, or Nathan Lavery, Senior Director of Finance will discuss the existence, terms or content of the Resignation Agreement except that they may state that Provost has resigned for medical reasons. The aforementioned individuals may disclose only those terms that School Board members or District employees need to know in order to perform their positions, provided that said District employees agree to protect any non-publicly known information as confidential personnel information. It is understood that as a public entity the District is subject to Vermont Public Records Act and should there be a request which encompasses documents in Provost's Personnel file and or the Resignation Agreement, the District will determine whether it must release the requested documents under the provisions of applicable law. For a period of two years from the date of the execution of the Resignation Agreement, if an information request, subpoena or other legal order is directed to the District that encompasses Provost's Personnel file and/or the Resignation Agreement, the Superintendent or his designee will notify Provost's attorney, Heather Ross, Esq., of the request within one (1) business day of the receipt of the such request, subpoena or legal order. Notice sent to Ms. Ross at the following address, "hross@sheeheyvt.com" and Sheehey Furlong & Behm P.C., 30 Main Street, P.O. Box 66, Burlington, Vermont 05402 will satisfy this requirement. Disclosures made by the District consistent with any legal obligation it may have shall not constitute a violation of the Resignation Agreement.
- B. **PROPERTY.** Provost will return any and all District property in his possession including, but not limited to, keys, pagers, cell telephones, computers, and credit cards. Provost and a District Human Resources representative will make a mutually agreeable arrangement for Provost to remove his personal property from his office after regular business hours. The District agrees that Provost may port over his existing cell phone number to his personal cell phone account. All of these activities shall occur no later than January 5, 2018
- C. **PRESENCE AT WORK.** Provost shall not return to work at the District and shall not be present in nonpublic areas of District property except as described in Section B. Property above.
- D. **NO ADMISSION OF WRONGDOING.** The parties enter into this Resignation Agreement to reach a negotiated end to Provost's District employment and neither party admits that they engaged in any wrongdoing.

### IV. MISCELLANEOUS

- A. **ASSIGNMENT.** Neither the District nor Provost may make any assignment of this Resignation Agreement or any interest herein, by operation of law or


otherwise, without the prior written consent of the other.

- B. **SEVERABILITY.** If any portion or provision of this Resignation Agreement is to any extent declared illegal or unenforceable by a court of competent jurisdiction, then the remainder of this Resignation Agreement, or the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, shall not be affected thereby, and each portion and provision of this Resignation Agreement shall be valid and enforceable to the fullest extent permitted by law.
- C. **WAIVER.** No waiver of any provision hereof shall be effective unless made in writing and signed by the waiving party. The failure of either party to require the performance of any term or obligation of this Resignation Agreement, or the waiver by either party of any breach of this Resignation Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.
- D. **NOTICES.** Any and all notices, requests, demands and other communications provided for by this Resignation Agreement, other than Provost's Notice of Revocation, shall be in writing and shall be effective when delivered in person or deposited in the United States mail, postage prepaid, registered or certified, and addressed to Provost at his last-known address on the books of the District and, in the case of the District, to Burlington School District Vermont, 150 Colchester Ave., Burlington, VT 05401, Attn: Superintendent.
- E. **AMENDMENT.** This Resignation Agreement may be amended or modified only by a written instrument signed by Provost and the Superintendent of the Burlington School District.
- F. **GOVERNING LAW, CONSENT TO JURISDICTION.** This Resignation Agreement and all claims related thereto, including tort or otherwise, shall be construed and enforced under and be governed in all respects by the laws of the State of Vermont, without regard to the internal conflict of laws principles thereof. For the purpose of all claims related to this Resignation Agreement or Provost's employment with the District, both District and Provost irrevocably submit to the exclusive jurisdiction of either a state court located in Chittenden County, Vermont or any federal court in Vermont and agree that any such proceeding shall be brought or maintained only in such court.
- G. **ACKNOWLEDGEMENT OF RECEIPT OF RESIGNATION AGREEMENT AND WAIVER AND RELEASE AND FULL OPPORTUNITY TO CONSIDER.** Provost acknowledges receipt of this Resignation Agreement, the attached Waiver and Release and Appendices, and acknowledges that he has had adequate time to consider all aspects thereof and fully consult with his legal counsel, Heather Ross, Esq. Provost waives any portion of the twenty one (21) day consideration period that may remain.

- H. **ENTIRE AGREEMENT.** This Resignation Agreement constitutes the entire agreement between the parties and supersedes and revokes any and all prior and contemporaneous communications, representations and understandings, whether written or oral, with respect to the terms and conditions of Provost's employment or separation.
- I. **COUNTERPARTS.** Each party will sign two counterpart originals of this Resignation Agreement, each of which shall have the full force and effect of an original document. Provost shall sign two originals of the Waiver and Release each of which shall have the full force and effect of an original document.

IN WITNESS WHEREOF, this Agreement has been executed by the District, by its duly authorized officer, and by Provost as of the dates below.

Dated: 1/3/2018

  
Adam Provost

STATE OF VERMONT  
COUNTY OF CHITTENDEN, SS:

At Burlington, VT, this 3<sup>rd</sup> day of January, 2018,<sup>By me</sup>  
personally appeared Adam Provost, to me known to be the signer of the foregoing Resignation Agreement, and he acknowledged the execution of the same to be his free act and deed.

Before me: Maile M. Dixon  
Notary Public  
Commission Expires: 2-10-19

BURLINGTON SCHOOL DISTRICT

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Yaw Obeng, Superintendent  
Duly Authorized.

STATE OF VERMONT  
COUNTY OF CHITTENDEN, SS:

At Burlington, Vermont, this \_\_\_\_ day of \_\_\_\_\_ 2018, personally appeared Yaw Obeng, Superintendent, known to me and known to be the signer of the foregoing Resignation Agreement, and he acknowledged the execution of the same to be his free act and deed, and the free act and deed of the Burlington School District.

Before me: \_\_\_\_\_

Notary Public  
Commission Expires:

Reviewed as to Form

Reviewed as to Form

By: Heather E. Ross  
Heather Ross, Esq.  
Attorney for Adam Provost

By: \_\_\_\_\_  
Susan Gilfillan, Esq.  
Attorney for the Burlington School District

BURLINGTON SCHOOL DISTRICT

Dated: Jan 7, 2018

By: [Signature]  
Yaw Obeng, Superintendent  
Duly Authorized.

STATE OF VERMONT  
COUNTY OF CHITTENDEN, SS:

At Burlington, Vermont, this 7 day of JANUARY 2018, personally appeared Yaw Obeng, Superintendent, known to me and known to be the signer of the foregoing Resignation Agreement, and he acknowledged the execution of the same to be his free act and deed, and the free act and deed of the Burlington School District.

Before me: [Signature]  
Notary Public  
Commission Expires:

Reviewed as to Form

Reviewed as to Form

By: \_\_\_\_\_  
Heather Ross, Esq.  
Attorney for Adam Provost

By: [Signature]  
Susan Gilfillan, Esq.  
Attorney for the Burlington School District



## ATTACHMENT A

### Waiver and General Release of Claims

In return for the consideration specified in the Resignation Agreement to which this Waiver and General Release of Claims is attached as Attachment A the sufficiency of which I acknowledge, I, Adam Provost, for myself, my heirs and assigns, executors, administrators, successors, legal representatives and/or assigns:

1. Unconditionally and generally release and forever discharge the Burlington School District, of Burlington, Vermont, including all of and its past and present Board members, managers, supervisors, employees and agents (the "District") from all actions, any and all claims, demands and causes of action of any nature whatsoever against the District, specifically including, but not limited to:
  - a. any and all claims, demands and causes of action for alleged discrimination based on the Age Discrimination in Employment Act, 29 U.S.C. § 621 and 6101, et seq.;
  - b. any and all claims, demands and causes of action for alleged discrimination based on the Civil Rights Act of 1964, 42 U.S.C. §2000 et seq., the Civil Rights Act of 1866, 42 U.S.C. §1981 et seq., the Civil Rights Act of 1991, the Rehabilitation Act of 1973, 29 U.S.C. §701 et seq. the Americans with Disabilities Act, 42 U.S.C. §1201 et seq., the Family and Medical Leave Act 29 U.S.C. §2601 et. seq., The Vermont Parental and Family Leave Act 21 V.S.A. Subchapter 4A; the Vermont Fair Employment Practices Act, 21 V.S.A. § 495, et seq. and the, Vermont Disability Employment Laws, 21 V.S.A. §497 et seq. and any other federal, state, or local human or civil rights, rules and/or regulations, agreement or public policy.
  - c. from all actions, causes of action, suits, debts, dues, covenants, contracts, bonuses, controversies, agreements, promises, claims, charges, complaints and demands whatsoever in law or equity, which against the District that I have or hereinafter can have, shall or may have for, upon or by reason of any matter, cause or thing whatsoever, arising out of my employment and conclusion of employment with the District, from the beginning of the world through the Effective Date of the Resignation Agreement, including, but not limited to, those arising under The United States Constitution 14th Amendment, 42 U.S.C. §1963, 1983, the National Labor Relations Act, 29 U.S.C. §151 et seq., the Fair Labor Standards Act, 29 U.S.C. §201 et seq., the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001 et seq., the Vermont Wage Laws, T.21, Section 381 et seq.; and any other federal, state, or local wage-hour, pension or labor laws, rules and/or regulations, agreement or the Burlington School District Policies and procedures, including, but not limited to, its Sexual Harassment Policy and Procedures, the District's Personnel Policy and the Burlington Administrator Association's Collective Bargaining Agreement as it may be amended from time to time, and any other policies, contract or tort laws, rules and/or regulations or

any claim arising under common law, such as claims for defamation, breach of implied covenant of good faith and fair dealing, misrepresentation, false imprisonment, libel, slander, invasion of privacy, negligence, interference with advantageous relations, infliction of emotional distress, discrimination, wrongful termination or otherwise, or any other action, and shall not, from any source or proceeding, seek or accept any additional award of funds or any other relief therefrom.

It is my intent to release all claims of every nature and kind whether known or unknown, accrued or unaccrued, which I may have against the District, arising out of my employment and separation of employment from the District up to the Effective Date of this Agreement/Release, except those claims which by law I cannot waive.

- d. any and all claims, demands and causes of action based on any employment agreement, including, but not limited to, my Administrator's Contract for my position as Interim Director, Burlington Technical Center 2017-2018, discussions, conversations, written and oral statements and communications with and by District administrators, board members, employees or agents, both prior to the commencement of and during the course of my employment.
2. I acknowledge and agree that executing this Waiver and General Release of Claims is my free and voluntary act after being given adequate opportunity to review this Waiver and General Release of Claims and all of its terms with my personal attorney. I hereby acknowledge that the District advised me to consult with legal counsel regarding the Resignation Agreement, including this Waiver and General Release of Claims, specifically the Waiver of Claims under the Age Discrimination in Employment Act.
3. I acknowledge and agree that when the Resignation Revocation Period has expired, the Waiver and General Release of Claims hereby incorporates the terms and conditions of the Resignation Agreement.

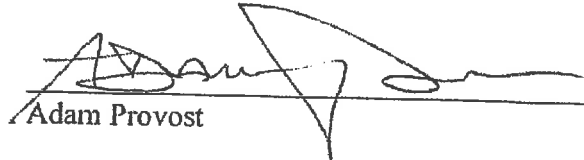
**I acknowledge and agree that I received adequate time in which to consider this Waiver and General Release of Claims and that I waive any remaining time left in the twenty (21) day consideration period. I understand that for a period of seven (7) days from my execution of this Waiver and General Release of Claims, I have the right to revoke this Waiver and General Release of Claims. I also understand that if I do not execute this Waiver and General Release of Claims it shall cause a revocation of the Resignation Agreement.**

**I understand that my written notice of revocation must be delivered to Superintendent, Yaw Obeng at his office at 150 Colchester Ave., Burlington, Vermont no later than 4:30 p.m., on January 10, 2018. I also understand that if I revoke the Waiver and General Release of Claims, it shall cause a revocation of the Resignation Agreement**



IN WITNESS WHEREOF, this Waiver and General Release of Claims has been executed by Adam Provost, as of the date below.

Dated: 1/3/2018

  
Adam Provost

STATE OF VERMONT  
COUNTY OF CHITTENDEN, SS:

At Burlington, VT, this 3<sup>rd</sup> day of January, 2018, personally appeared Adam Provost, to me known to be the signer of the foregoing Waiver and General Release of Claims, and he acknowledged the execution of the same to be his free act and deed.

Before me: Mel M. Dixon  
Notary Public  
Commission Expires: 2-10-19

**ATTACHMENT B**  
**Letter of Resignation**

January 2, 2018

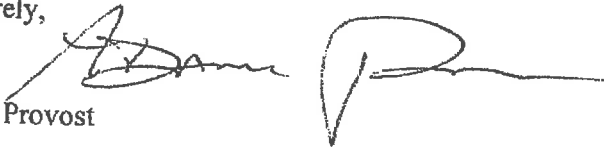
Yaw Obeng, Superintendent  
Burlington School District  
150 Colchester Ave.  
Burlington, Vermont 05401

Dear Yaw,

I am resigning my employment with the Burlington School District for medical reasons effective January 2, 2018. I am resigning my employment voluntarily and with the understanding that such resignation is irrevocable.

Sincerely,

Adam Provost

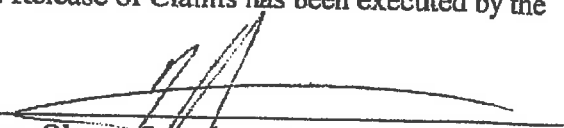
A handwritten signature in black ink, appearing to read 'Adam Provost', with a long horizontal flourish extending to the right.

**ATTACHMENT C  
Waiver and Release of Claims**

In return for the consideration specified in the Resignation Agreement to which this Waiver and Release of Claims is attached as Attachment C the sufficiency of which is acknowledged, the Burlington School District, (the "District"), for itself and its administrators, successors, legal representatives and/or assigns, does hereby unconditionally and generally release and forever discharge Adam Provost from all actions, any and all claims, demands and causes of action of any nature whatsoever, specifically including, but not limited to all actions, causes of action, suits, debts, dues, covenants, contracts, bonuses, controversies, agreements, promises, claims, charges, complaints and demands whatsoever in law or equity, which the District has, may have or hereinafter can have, shall or may have for, upon or by reason of any matter, cause or thing whatsoever, arising out of and within the appropriate scope of Adam Provost's employment and conclusion of employment with the District, from the beginning of the world through the date of signature below, including, but not limited to, those arising under the Administrator's Contract for his position as Interim Director, Burlington Technical Center 2017-2018, and any other federal, state, or local laws, rules and/or regulations, agreement or public policy, and any other policies, contract or tort laws, rules and/or regulations or any claim arising under common law, such as claims for breach of contract, defamation, breach of implied covenant of good faith and fair dealing, misrepresentation, false imprisonment, libel, slander, invasion of privacy, negligence, interference with advantageous relations, infliction of emotional distress, discrimination, or otherwise, or any other action. It is the District's intent to release all claims of every nature and kind arising out of and within the appropriate scope of Provost's employment and conclusion of employment with the District, whether known or unknown, accrued or unaccrued, which it may have against Adam Provost, known or unknown, accrued or unaccrued, prior to and up to the Effective Date, except those claims (if any) which by law may not be waived. Notwithstanding the foregoing the District does not waive any of its rights to enforce its rights under the Agreement, including, but not limited to recouping payments representing the month of January's salary.

IN WITNESS WHEREOF, this Waiver and Release of Claims has been executed by the Burlington School District, as of the date below.

Dated: Jan 7, 2018

By:   
Yaw Obeng, Superintendent  
Duly Authorized

STATE OF VERMONT  
COUNTY OF CHITTENDEN, SS:

At Burlington, Vermont, this day of JANUARY 7, 2018, personally appeared Yaw Obeng, Superintendent, known to me and known to be the signer of the foregoing Waiver and Release, and he acknowledged the execution of the same to be his free act and deed, and the free act and deed of the Burlington School District.

Before me:   
Notary Public  
Commission Expires: