

Sally E. Downey
[REDACTED]
[REDACTED]

April 1, 2019

East Valley Institute of Technology
Governing Board
1601 West Main Street
Mesa, Arizona 85202

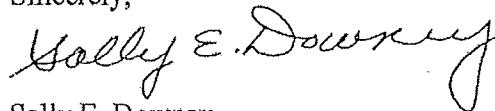
Re: Letter of Resignation

Dear Members of the Governing Board:

I am resigning from my position as Superintendent of the East Valley Institute of Technology ("EVIT") effective April 30, 2019.

I would like to thank EVIT for the opportunities and professional and personal development I have experienced over many years. I truly believe in EVIT and the opportunities it provides to the students in the community.

Sincerely,



Sally E. Downey

SEPARATION AGREEMENT AND RELEASE

This Retirement and Separation Agreement and Release (the "Agreement") is between Dr. Sally Downey ("Employee") and the East Valley Institute of Technology No. 401 of Maricopa County ("District") and is entered into on the 1st day of April, 2019.

RECITALS:

- A. The District currently employs Employee as the Superintendent, pursuant to the terms of an Employment Contract dated May 14, 2018 (the "Contract").
- B. Employee desires to resign from her Employment and has tendered her voluntary, irrevocable resignation effective April 30, 2019.
- C. The District and Employee desire to amicably and forever resolve any and all issues pertaining to the Employee's employment with the District, without any admission of liability, and without setting any precedent binding on the District or Employee in any other situation.

AGREEMENT:

For good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, Employee agrees to the following terms and conditions:

1. Effective Date/Separation Date. This Agreement will become effective upon the Board's approval of the Agreement. As a condition to the Board's approval of the Agreement, Employee herewith tenders her voluntary, irrevocable resignation effective April 30, 2019 (the "Separation Date").
2. Terms of Employment through April 30, 2019.
 - (a) Employee will continue to be employed by the District through April 30, 2019 and will be paid, through that date, on a prorated basis, her base salary, annuity, and taxes for her annuity, as provided in the Contract.
 - (b) The District will pay for Employee's medical insurance plan in force in the District until April 30, 2019, at the same levels of coverage she has had this fiscal year.
 - (c) The District will also contribute its share of contributions pertaining to Employee's employment to the Arizona State Retirement System. Notwithstanding anything to the contrary in the Contract.
 - (d) Notwithstanding anything to the contrary in the Contract, Employee will not be compensated or reimbursed for any allowances, salary, performance pay

or benefits other than allowed by this Agreement, and, by this Agreement, asserts no entitlement to them.

3. Consideration.

Within ten (10) business days after April 30, 2019, the following will occur:

- (a) The District will pay Employee a sum equal to her current regular monthly compensation (base pay) under her Superintendent's Contact of Employment prorated for the period commencing May 1, 2019 through February 28, 2020. \$157,177.73
- (b) The District will pay Employee a sum equal to the cost of Employee's annuity and taxes for the annuity, prorated through that period. \$33,333.33.
- (c) Employee will be paid any remaining balance of accrued but unused vacation leave and sick leave pursuant to District policy. As of the date this Agreement was drafted, Dr. Downey has 133.60 accrued vacation days and 277 days of accrued sick leave. Any sick leave or vacation leave taken since she was placed on administrative leave or will take up through April 30, 2019, will be deducted from this amount.
- (d) Employee will not be paid for any other allowances or benefits other than allowed by this Agreement, and, by this Agreement, asserts no entitlement to them.

Employer makes no representation or warranty to Employee regarding the tax treatment or consequences of any payments made to her under this Agreement. Employee will be solely responsible for the payment of all taxes of whatever kind that may be due or payable in connection with any sums paid to her under this Agreement, and will indemnify and hold Employer harmless from all liens, actions, or claims on the part of the Internal Revenue Service or any other tax authority in connection with the payment to her under this Agreement.

4. Consultation with Legal Counsel. The parties to this Agreement have had an opportunity to consult with counsel of their choosing, and to have their rights and obligations under this Agreement, including, but not limited to, the release language in this Agreement, explained to them and respectively acknowledge an understanding of the content of this Agreement.

5. Employee's Release of Claims Against the District.

(a) Consultation with Counsel – Employee has had an opportunity to consult with counsel of her choosing and to have her rights and obligations under this

Agreement, including, but not limited to, the release language in this Agreement, explained to her and acknowledges an understanding of the content of this Agreement.

(b) Employee hereby releases and discharges all of her existing rights to any relief of any kind known at the time of the Separation Date against the District, its affiliated entities, predecessors, successors, assigns, its agents, directors, officers, employees, marital communities and representatives (hereinafter the "District Released Parties") of and from any and all losses, liabilities, claims, expenses, demands, and causes of action, of every kind and nature whatsoever in law or in equity, contract or tort, known at the time of the Separation Date, including by way of illustration, but not of exclusion, all claims for wages, compensation, benefits, damages, disbursements or any other claim arising from or relating to Employee's employment with the District and all claims for personal injury or any other claim on any basis or theory whatsoever through the Separation Date. This Release does not release any claim for vested benefits, such as retirement benefits and unemployment benefits or any contractual right to indemnity under the Contract or Agreement, to the extent allowed by law.

(c) Acknowledgement of Rights – Employee has been made aware of her rights under the Older Workers Benefit Protection Act, 29 U.S.C. 621 et seq., and understands and agrees that she is waiving any and all rights or claims she may have under the Age Discrimination in Employment Act of 1967 ("ADEA") as amended. Employee further expressly acknowledges and agrees that she:

1. Has been offered a period of at least twenty-one days within which to consider this Agreement before executing it, and with advice of her counsel has waived that opportunity after having what she hereby expressly acknowledges and agrees was an adequate and fair period of time within which to review and consider this Agreement.
2. Has carefully read and fully understands all of the provisions of this Agreement and has agreed to accept all of the terms contained therein without any pressure or coercion by the Employer.
3. By this Agreement, understands she is releasing the Released Parties as defined in this Agreement from any and all claims she may have against them or any of them accruing through the Separation Date.
4. Knowingly and voluntarily agrees to all of the terms set forth in this Agreement.
5. Knowingly and voluntarily intends to be legally bound by this Agreement.
6. Had an opportunity to consult with an attorney of her choice prior to executing this Agreement.

7. Has a full seven (7) days following the execution of this Agreement to revoke this Agreement and has been and hereby is advised in writing that this Agreement shall not become effective or enforceable until the revocation period has expired. If Employee revokes this Agreement within the time frame specified above, she agrees to do so by giving written notice to the Superintendent. In the event that Employee timely revokes this Agreement after she has received any payment for consideration specified herein, Employee agrees to return said payment or consideration with her notice of revocation.

6. District Release of Claims Against Dr. Downey.

The District hereby releases and discharges all of its existing rights to any relief of any kind known at the time of the Separation Date against the Employee, her predecessors, successors, assigns, her agents, marital communities and representatives (hereinafter the "Employee Released Parties") of and from any and all losses, liabilities, claims, expenses, demands, and causes of action, of every kind and nature whatsoever in law or in equity, contract or tort, known at the time of the Separation Date, for actions taken in the course and scope of her employment, including, by way of illustration, but not of exclusion, all claims for compensation, damages, disbursements or any other claim arising from or relating to Dr. Downey's employment with the District and all claims for personal injury or any other claim on any basis or theory whatsoever through the Separation Date for her actions taken in the course and scope of her employment with the District. This Release does not release the Employee from any claim against Employee asserted by another governmental agency for acts Employee committed outside the course and scope of her duties as a District employee.

7. Reemployment. The Employee agrees that she will not apply for employment with the District in the future and shall not accept an offer of reemployment. Employee understands and agrees that if the Employee applies for employment with the District, the District is not under any obligation to consider that application.

8. Reference Information. The District agrees to provide Employee with a neutral reference containing dates of employment and position held. Employee agrees that she will direct anyone seeking reference information to communicate with Edith Perez, the District Director of Finance. If asked if Dr. Downey is eligible for rehire, Ms. Perez will advise that she is not authorized to provide that information.

9. Indemnity. Notwithstanding anything in the Contract to the contrary, the parties to this Agreement agree that the District is under no obligation to indemnify Employee if such an indemnity is contrary to law.

10. Compromise. The parties agree that this Agreement is a compromise and settlement of any and all disputed claims by Employee and the District and that it shall not be construed to be an admission of liability or wrongdoing by any party.

11. Waiver of Liquidated Damages. The District waives any right it may have to liquidated damages for early termination of Employee's employment contract.

12. Authority. Employee represents and warrants that she has the authority to enter into this Agreement, and that she has not assigned any claims to any person or entity.

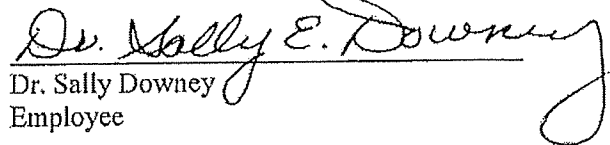
13. Complete Agreement. No promise, inducement or agreement not herein expressed has been made or entered into with Employee. This Agreement constitutes and embodies the full and complete understanding and agreement of the parties hereto with respect to the matters addressed herein and supersedes all prior understandings and agreements. The parties may not change, modify or rescind this Agreement except in writing, signed by both parties.

14. Headings. The heading to each paragraph contained herein is for the convenience of the parties and has no independent legal significance.

15. Governing Law. This Agreement shall be construed and enforced under the laws of the State of Arizona.

16. Drafting. Neither this Agreement nor any of its provisions shall be deemed prepared or drafted by any one party or its attorneys and shall not be construed more strongly against Employee or the District.

17. Counterparts. This Agreement may be executed in counterparts.


Dr. Sally Downey
Employee

EAST VALLEY INSTITUTE OF
TECHNOLOGY NO. 401

By _____
Its _____