

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the "Agreement") is made and entered into by and between Tim Davidson, on behalf of his son, Spencer Davidson ("Spencer"), their heirs, estates, executors, administrators, representatives, and assigns (collectively, "Complainant"), and the Clear Lake Community School District ("the District"). The signatories to this Agreement will be referred to jointly as the "Parties."

In consideration of the following promises, the parties agree to the following:

The parties desire to resolve all matters arising out of Spencer's education in the District;

Complainant has asserted certain claims against the District based upon and arising out of his education in the District, which claims he has brought against the District in a Charge of Discrimination ("Charge") filed with the Iowa Civil Rights Commission (ICRC), Charge No. 06-13-64419;

The District has denied, and continues to deny, any and all liability based on Complainant's allegations of wrongdoing; and

The parties desire to settle all potential outstanding issues between them related to Spencer's education in the District, whether the subject of the above-referenced Charge or otherwise, on an amicable basis on the terms and conditions stated in this Agreement.

THEREFORE, for and in consideration of the releases, covenants, and undertakings hereinafter set forth, and for other good and valuable consideration, which each party acknowledges, it is agreed as follows:

1. Payment. In consideration for the promises set forth herein, and subject to and conditioned upon Complainant's performance of the conditions and undertakings set forth herein, the District, in full and final settlement of all of Complainant's stated and unstated

claims, whether the subject of the above-described Charge or otherwise, agrees to cause to be made payment in the amount of Fifty Thousand Dollars (\$50,000.00) in full and final settlement of any and all of Complainant's claims for personal injuries, pain and suffering, emotional distress, damages to reputation, liquidated damages, and other damages in whatever form and for whatever cause, and for any and all legal fees, expenses, and costs.

2. District Actions. The District further agrees to take the following actions:

a. **Policy Revisions.** The District's anti-bullying/anti-harassment student policy will be amended to include the following provisions:

- i. While students will be encouraged to report a complaint of bullying/harassment to a designated investigator within their building, students will be notified that they may report such a complaint to any District employee.
- ii. Students who witness bullying/harassment will be strongly encouraged to report the behavior to a designated investigator.
- iii. When a District employee becomes aware of a complaint of bullying/harassment, the employee shall report the behavior to a designated investigator.
- iv. Complaints will be investigated, regardless of whether the student puts the complaint in writing, if the student articulates a violation of the District's anti-bullying/anti-harassment policy.
- v. When a complaint of bullying/harassment has been received by a designated investigator, that employee will develop an appropriate safety plan for the student. That employee, or an appropriate designee, will also be responsible for checking in with the student following resolution of the complaint to determine whether the problem has been resolved or if further action is required.
- vi. Retaliation against any individual who makes or participates in a complaint or investigation of bullying or harassment is strictly prohibited. No person who makes a good faith complaint under the District's policy shall be subject to retaliation. However, any individual who makes an intentionally false accusation shall be subject to disciplinary action.

b. **Staff training.**

- i. The District will retain an individual with experience in conducting harassment training and investigations to provide training in bullying/harassment awareness, prevention, and District policies and procedures. The District anticipates that this training will be provided to District administrators, counselors, and designated investigators by the summer of 2014.
 - ii. The District will additionally allocate some staff development meeting time to train all staff in bullying/harassment awareness, prevention, and District policies and procedures.
- c. **Letter of apology.** Coach Wieck will issue a letter of apology to Spencer, the wording of which has been previously agreed upon between the parties. If Coach Wieck leaves employment with the District for any reason, the District cannot compel Coach Wieck to sign this letter, and this provision of the agreement shall be null and void. Complainant hereby agrees that, under this circumstance, failure to furnish such letter shall not be considered a breach of this agreement.
- d. **Student advocate.** The District will designate an employee to serve as a student advocate, who may be contacted by students in person, or by email or telephone, for advice and support regarding bullying or harassment that students have experienced or witnessed. A student could request the assistance of this advocate at any time during the complaint process.
- e. **Spencer's attendance.** There will be no penalty for Spencer's absence from school to attend the mediation held on February 14, 2014.

3. **Valid Consideration.** Complainant expressly agrees and acknowledges that the payments described in Paragraph 1 above are not payments to which he is otherwise entitled. Except as stated above in Paragraph 1 of this Agreement, Complainant shall not be entitled to any compensation, remuneration, benefits, or other payments from the District.

4. **Withdrawal and Dismissal.** In exchange for the receipt of the payments provided to or on behalf Complainant pursuant to Paragraph 1, within three business days of the payments in Paragraph 1 being made, Complainant will take the steps necessary to dismiss and withdraw the Charge with prejudice, and withdraw and dismiss with prejudice any other complaints, charges, or other actions he has filed with any court or agency relating to Spencer's education in the District. Should Complainant fail to act in conformity with this Paragraph, then

the District is entitled to take whatever action is necessary to recoup any payments previously made to or on behalf of Complainant.

5. Taxes. Complainant is not relying on any information provided by the District, its employees, or its attorneys concerning the tax consequences of payments made under this Agreement. Complainant acknowledges and agrees that he is solely and entirely responsible for the payment and discharge of all federal, state, and local taxes, if any, which may, at any time, be found to be due upon or as a result of any amount that is paid by the District under this Agreement. The District agrees to indemnify, defend, and hold the District, its parents, subsidiaries, successors, affiliates, and assigns harmless from any claim or liability asserted against the District, or for any taxes and related penalties or interest, relating to the payments in Paragraph 1 or the manner in which those payments are allocated and paid under this Agreement.

6. Costs and Fees. Except as specified herein, each party will bear its respective costs and fees, including attorneys' fees and mediator costs, incurred in the litigation of this matter.

7. Liability Not Admitted. The Parties agree and acknowledge that this Agreement is the result of a compromise and shall never be considered, construed, or offered as an admission by the District of any liability, wrongdoing, or responsibility. The District expressly denies any such liability, wrongdoing, or responsibility. It is expressly understood and agreed that neither party shall be deemed to be a "prevailing party" for the purposes of any fee-shifting statute, rule, or agreement.

8. Release of All Claims. Complainant hereby releases and forever discharges the District and its affiliates, subsidiaries, parent corporations, and their present and former employees (including any individuals specifically referenced in the Charge), agents, directors,

officers, executives, predecessors and/or successors in interest, attorneys, insurers, heirs, and assigns (“Released Parties”), from any and all matters, claims, complaints, charges, demands, damages, causes of action, debts, liabilities, controversies, judgments, and suits of every kind and nature whatsoever arising out of Spencer’s education with the District, which as of the date of this Agreement, are foreseen or unforeseen, known or unknown, whether arising under federal, state, or local statute or ordinance, or under common law, including but not limited to torts, contracts, or public policy claims. If Complainant violates this Agreement by suing or initiating any action or complaint against a Released Party for any claim or cause of action released by this Agreement, Complainant agrees that he will pay all costs and expenses incurred by the Released Party in defending such a lawsuit, action or complaint, including reasonable attorneys’ fees.

9. Beneficiaries and Assignability. This Agreement is binding on, and shall inure to the benefit of, the Parties, their heirs, representatives, transferees, principals, estates, executors, administrators, predecessors, successors, parents, subsidiaries, affiliates, assigns, agents, directors, officers, directors and employees.

10. Entire Agreement. This Agreement constitutes the entire agreement, written and oral, of the parties hereto, and it supersedes and replaces all prior negotiations, proposed agreements, understandings, representations and agreements, written or oral. No party hereto is relying on any statement or representation of any other party hereto except those, if any, set forth herein. No part of this agreement may be amended, varied, or supplemented in any respect, except by a writing duly executed by each of the parties hereto or their authorized representatives.

11. **Counterparts.** This Agreement may be executed in one or more counterparts, all of which, taken together, shall constitute one and the same instrument.

12. **Choice of Law.** The parties agree that this Agreement shall be governed by and construed in accordance with the laws of the State of Iowa, without regard for its choice-of-law provisions.

13. **Severability.** Except as otherwise provided in this Paragraph, if any provision of this Agreement shall be finally determined to be invalid or unenforceable by a court of competent jurisdiction, that part shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the remaining parts of said provision or the remaining provisions of this Agreement.

14. **Board Approval.** This Agreement is subject to approval by the District' s Board of Directors. Should the Board reject or otherwise fail to accept this Agreement, this Agreement shall be deemed null and void in its entirety.

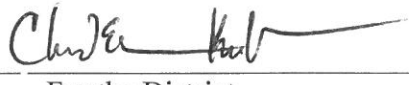
15. **Knowing/Voluntary Waiver.** The Parties acknowledge and agree that they have had sufficient time to consider this Agreement and consult with legal counsel of their choosing concerning its meaning prior to entering into this Agreement. In entering into this Agreement, no Party has relied on any representations or warranties of any other Party, other than the representations or warranties expressly set forth in this Agreement. The Parties further acknowledge that they fully understand this Agreement and the effect of signing and executing the Agreement.

16. **Jointly Drafted.** Because the Parties have had a full opportunity to consider this Agreement and negotiate its terms, this Agreement is deemed to have been jointly prepared by the Parties, and any uncertainty or ambiguity existing in it shall not be interpreted against any

Party as the primary drafter of the Agreement. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its meaning and not strictly for or against any of the Parties.

I HAVE READ THIS SETTLEMENT AGREEMENT AND RELEASE AND, UNDERSTANDING ALL OF ITS TERMS, I SIGN IT AS MY FREE ACT AND DEED.

Date 5/1/2014 
Tim Davidson, Complainant

Date 5/27/2014 
For the District

Approved as to Form by:

Date 
Roxanne Conlin, Attorney for Complainant