

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is entered into by and between the Marion County School District 103, a/k/a Woodburn School District ("Respondent"), and the United States Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section ("IER") (collectively, "the Parties").

I. BACKGROUND

WHEREAS, on August 20, 2018, IER received a charge filed by [REDACTED] ("Injured Party"), DJ#197-61-149 ("IER Charge"), alleging that Respondent pre-screened [REDACTED] by requesting more or different documents than necessary to verify [REDACTED] employment eligibility based on [REDACTED] status as a conditional lawful permanent resident, and subsequently refused to hire the Injured Party because of [REDACTED] citizenship status, in violation of the anti-discrimination provision of the Immigration and Nationality Act, 8 U.S.C. §§ 1324b(a)(6) and (a)(1);

WHEREAS, on September 6, 2018, IER notified Respondent that it had initiated an investigation ("IER Investigation") based on the Injured Party's allegations to determine whether Respondent had engaged in any discriminatory conduct in violation of 8 U.S.C. § 1324b;

WHEREAS, IER concluded based upon the IER Investigation that there is reasonable cause to believe that Respondent, before offering the Injured Party employment, requested [REDACTED] to present more or different documents than necessary for purposes of verifying [REDACTED] work authorization, based on [REDACTED] status as a conditional permanent resident, in violation of 8 U.S.C. § 1324b(a)(6). IER also concluded that there is a reasonable cause to believe that Respondent discriminated against the Injured Party in violation of 8 U.S.C. § 1324b(a)(1) by refusing to hire [REDACTED] because [REDACTED] is a conditional permanent resident;

WHEREAS, the Parties wish to resolve the IER Investigation without further delay or expense and hereby acknowledge that they are voluntarily entering into this Agreement; and

NOW, THEREFORE, in consideration of the below mutual promises, and to fully and finally resolve the IER Investigation as of the date of this Agreement, the Parties agree as follows:

II. TERMS OF SETTLEMENT

1. This Agreement shall become effective as of the date the last party signs the Agreement, referred to as the "Effective Date." The term of this Agreement is three years following the Effective Date.
2. Respondent shall pay civil penalties to the United States Treasury in the amount of \$5,543.00. Respondent shall pay the monies discussed in this paragraph via the FedWire electronic fund transfer system within 15 days of either the Effective Date or receipt of fund transfer instructions from IER, whichever is later. On the day of payment, Respondent shall confirm via email to Pablo A. Godoy at Pablo.Godoy@usdoj.gov (or any other

individual IER designates) that payment was made.

3. Respondent shall, within 15 days from the Effective Date, send the Injured Party an IRS Form W-4 and a form permitting the Injured Party to elect a method of payment for the payment referenced in paragraph 4.
4. Respondent shall pay the Injured Party, within 15 days from its receipt of the Injured Party's IRS Form W-4, the amount of \$5,774.81, less any withholding required by law, which constitutes front pay and back pay plus accumulated interest and additional commuting expenses incurred by the Injured Party. Interest is calculated at the IRS underpayment rate, through the Effective Date. Commuting expenses are calculated at the IRS standard mileage rate, through the Effective Date. On the day of payment, Respondent shall confirm via email to Pablo A. Godoy at Pablo.Godoy@usdoj.gov (or any other individual IER designates) that payment was made. Respondent shall pay the Injured Party using the method of payment selected by the Injured Party in paragraph 3.
5. Respondent shall, 45 days after remitting the Injured Party's W-2 form for calendar year 2019 to the Social Security Administration, file a special report to the Social Security Administration allocating the payment made to the Injured Party pursuant to paragraph 4 to the appropriate periods. On the day Respondent submits the documentation, Respondent shall confirm via email to Pablo A. Godoy at Pablo.Godoy@usdoj.gov (or any other individual IER designates) that such documentation was submitted.
6. This Agreement resolves any and all differences between the Parties with respect to the IER Investigation through the Effective Date. IER shall not seek from Respondent any additional civil penalty or relief on behalf of itself or the Injured Party, beyond that referenced in this Agreement, for the alleged unfair documentary practice and alleged unlawful termination in violation of 8 U.S.C. § 1324b that are the subject of the IER Investigation through the Effective Date.
7. Pursuant to 8 U.S.C. § 1324b, Respondent shall not discriminate against applicants or employees based on citizenship, immigration status, or national origin, during the recruitment, hiring, firing, and employment eligibility verification or reverification (together, "EEV") process.
8. Respondent shall avoid discrimination in the EEV process by (1) not completing the EEV process until after an individual has been hired; (2) not requesting more or different documents for the purpose of completing the EEV process based on an employee's citizenship status, immigration status, or national origin; and (3) permitting all employees to choose which document or combination of documents to present during the EEV process so long as they are acceptable by law.
9. Respondent shall not discriminate against any individual based on citizenship status or national origin in violation of 8 U.S.C. § 1324b(a)(1)(B) when recruiting, hiring, or firing employees.

10. Within thirty (30) days of the Effective Date, Respondent shall review its employment policies and revise such policies to prohibit discrimination on the basis of citizenship status and national origin in the recruitment, hiring and firing processes.
11. Respondent shall not intimidate, threaten, coerce, or retaliate against any person for his or her participation in the IER Investigation or exercise of any right or privilege secured by 8 U.S.C. § 1324b.
12. For the term of this Agreement, if it does not already do so, Respondent shall post the IER "If You Have The Right to Work" poster ("IER Poster"), in color and measuring no smaller than 8.5" x 11," an image of which is available at <https://www.justice.gov/crt/worker-information#poster>, in all places where notices to employees and job applicants are normally posted. Respondent will post the IER Poster in English and Spanish.
13. Within 90 days of the Effective Date, Respondent shall ensure that human resources staff, supervisors, and school principals with responsibility for recruiting, advertising, hiring, onboarding, and terminating employees are trained on their obligation to comply with 8 U.S.C. § 1324b. Information regarding employees' obligation to comply with 8 U.S.C. § 1324b will be added to the hiring packet reviewed and signed by all hiring committee members.
 - a. The training will consist of viewing a free online IER Employer/HR webinar presentation or subject to the mutual agreement of the Parties, an in-person IER presentation.
 - b. Respondent will pay all in individuals their regular rate of pay during the training and trainings will occur during their normally scheduled workdays and work hours. Respondent shall bear all costs associated with these training sessions.
 - c. During the term of this Agreement, all new staff Respondent hires, promotes, or selects into positions or roles with any responsibility for the activities listed in paragraph 13, shall view a free IER Employer/HR webinar within sixty days of hire, promotion, or selection.
 - d. Respondent shall compile attendance records listing the individuals who completed the trainings described in this paragraph, including their full name, title, hire date, and the date of the training, and send them to Pablo.Godoy@usdoj.gov or another subsequently agreed-upon IER designee within ten (10) days of completion of each training session. Such emails shall include "Woodburn School District" and file number "DJ # 197-61-149" in the subject line.
14. During the term of this Agreement, IER reserves the right to make reasonable inquiries to Respondent as necessary to determine Respondent's compliance with this Agreement.
15. If IER has reason to believe that Respondent is in violation of any provision of this Agreement during the term of this Agreement, IER may, in its sole discretion, notify

Respondent of the purported violation without opening an investigation. Upon such notification, Respondent shall have 15 days to provide an explanation regarding the purported violation. In the event that Respondent's explanation does not satisfy IER's concern, Respondent will then have 30 days from the date of IER's notification regarding Respondent's explanation to cure the purported violation to IER's satisfaction before IER deems Respondent to be in violation of this Agreement.

16. Nothing in this Agreement limits IER's right to inspect Respondent's Forms I-9 pursuant to 8 C.F.R. § 274a.2(b)(2)(ii).
17. This Agreement does not affect the rights of any individual alleging an unfair immigration-related employment practice against Respondent, IER's authority to investigate or file a complaint on behalf of any such individual, or IER's authority to conduct an investigation of Respondent's employment practices that are not encompassed within the IER Investigation or that arise after the Effective Date.

III. ADDITIONAL TERMS OF SETTLEMENT


18. This Agreement sets forth the entire agreement between the Parties and fully supersedes any and all prior agreements or understandings between the Parties pertaining to the IER Investigation. This Agreement is governed by the laws of the United States. This Agreement shall be deemed to have been drafted by both Parties and shall not be construed against any one party in the event of a subsequent dispute concerning the terms of the Agreement. The Parties agree that the paragraphs set forth in Part II of this Agreement (entitled "Terms of Settlement") are material terms, without waiver of either Parties' right to argue that other terms in the Agreement are material.
19. This Agreement may be enforced in the United States District Court for the District of Oregon. This paragraph, or the initiation of a lawsuit to enforce the Agreement under this paragraph, including any counterclaims asserted, does not constitute and should not be construed as a waiver of sovereign immunity or any other defense either party might have against a claim for enforcement.
20. The Parties agree that, as of the Effective Date, litigation concerning the alleged violations of 8 U.S.C. § 1324b that are the subject of the IER Investigation is not reasonably foreseeable. To the extent that any party previously implemented a litigation hold to preserve documents, electronically stored information, or things related to this matter, the party is no longer required to maintain such a litigation hold. Nothing in this paragraph relieves either party of any other obligations imposed by this Agreement.
21. Should any provision of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected, and the term or provision shall be deemed not to be a part of this Agreement. The Parties shall not, individually or in combination with another, seek to have any court declare or determine that any provision of this Agreement is invalid.
22. The Parties shall bear their own costs, attorneys' fees and other expenses incurred in this

action.

23. This Agreement may be executed in multiple counterparts, each of which together shall be considered an original but all of which shall constitute one agreement. The Parties shall be bound by facsimile signatures.

**Marion County School District 103
a/k/a Woodburn School District**

By:


William Rhoades, D.Ed.
Superintendent

Dated:

10/10/19

Immigrant and Employee Rights Section

By:


Alberto Ruisanchez
Deputy Special Counsel

Dated:

10/15/19

Sebastian Aloat
Special Litigation Counsel

Pablo A. Godoy
Trial Attorney