

MINOR SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Minor Settlement Agreement ("Agreement") is made by and among Spencer Edgin and Melissa Edgin ("Plaintiffs") and Unified School District No. 229, Johnson County, State of Kansas ("Blue Valley" or "the District") on behalf of its Board of Education, members of the Board of Education (current and former) its agents, employees, including but not limited to Lydia Messenger, the District's insurers and assigns (collectively referred to as "Defendants"). Collectively, Plaintiffs and Defendants shall be referred to as "the Parties."

WHEREAS, Spencer Edgin and Melissa Edgin are the natural parents and legal guardians of [REDACTED] ("I.E."), a minor child and Blue Valley student;

WHEREAS, Spencer Edgin and Melissa Edgin are vested with full legal authority to enter this Agreement on behalf of I.E.;

WHEREAS, Spencer Edgin filed and presently has pending a lawsuit in the U.S. District Court for the District of Kansas, styled *Spencer Edgin on behalf of his minor daughter, I.E. v. Blue Valley U.S.D. 229 and Lydia Messenger*, Case No. 20-2547-EFM-JPO, wherein Spencer Edgin asserted claims for injury on I.E.'s behalf under theories of, *inter alia*, negligence and Title IX of the Education Amendments Act of 1972 (the "Lawsuit");

WHEREAS, the Parties reached an agreement to settle this matter, as set forth more fully below, subject to approval of the settlement agreement by the District's Board of Education and approval from the Court presiding over the Lawsuit;

WHEREAS, the Defendants have denied and continue to deny any wrongdoing and deny that they have harmed I.E. or violated I.E.'s rights under any federal, state, or local statute or law and further deny any liability in any respect whatsoever for monetary damages or otherwise. Any payment made to Plaintiffs represents a compromise of a disputed claim and does not and shall not constitute any acknowledgement by the Defendants of the truth of the allegations made by the Plaintiffs or any admission of liability; and

WHEREAS, the Parties desire to compromise and settle all claims Plaintiffs asserted in the Lawsuit, or could have asserted, whether known or unknown, against Defendants arising in any manner from I.E.'s attendance at Morse Elementary and her interactions with the alleged perpetrator student, J.W., up to the date of the execution of this Agreement and any other claims between the Parties as identified in this Agreement.

NOW, THEREFORE, in consideration of the covenants and obligations contained herein, the Parties agree as follows:

1. Payment. The Defendants shall pay, or cause to be paid through their insurance carrier(s), the total sum of \$130,000.00, which shall be apportioned as follows (collectively referred to as "Settlement Payment"). The Settlement Payment shall be made within 14 days of the Court's approval of the settlement in accordance with applicable legal requirements for settlements with minors.

- a. The sum of \$3,172.50 shall be paid directly to Spencer Edgin, in his capacity as parent and next friend to I.E., representing Spencer and Melissa Edgin's out-of-pocket medical costs for I.E. that Plaintiffs assert arise from the allegations set forth in the Lawsuit.
- b. The sum of \$6,484.50 shall be paid directly to Spencer Edgin, in his capacity as parent and next friend to I.E., representing I.E.'s future medical costs that Plaintiff anticipates I.E. will incur before she reaches age 18 that Plaintiff asserts arise from the allegations set forth in the Lawsuit. Such payment shall be placed in a restricted account for the sole benefit of I.E. until she reaches the age of majority. Spencer Edgin will act as the conservator of said restricted account.
- c. The sum of \$57,468.05 shall be paid directly to DRZ Law, LLC, representing those attorneys' fees and expenses that were incurred in the representation of Plaintiffs in the Lawsuit, all of which are fair and reasonable under the circumstances.
- d. The sum of \$62,874.95 shall be paid to American General Annuity Service Corporation to fund the following "Periodic Payments" to be paid to I.E. when she reaches the age of majority:
 - i. \$15,000.00 paid on 12/03/2030.
 - ii. \$25,000.00 paid on 12/03/2033.
 - iii. \$44,170.72 paid on 12/03/2037.
- e. The following subsections apply to the Periodic Payments.
 - i. The Periodic Payments constitute damages on account of personal injuries and sickness, within the meaning of Section 104(a)(2) of the Internal Revenue Code of 1986, as amended.
 - ii. Claimant's Rights to Payments. The Claimant (Plaintiffs) acknowledges that the Periodic Payments cannot be accelerated, deferred, increased or decreased by the Claimant or any Payee; nor shall the Claimant or any Payee have the right or power to sell, mortgage, encumber, or anticipate the Periodic Payments, or any part thereof, by assignment or otherwise.
 - iii. Payee's Beneficiary. Any payments to be made after the death of [REDACTED] pursuant to the terms of this Settlement Agreement, shall be made to such person or entity so designated by the Payee, or if the person designated is not living at time of the Payee's death, such payments shall be made to the estate of the Payee. The Payee may request in writing that the Assignee change the beneficiary designation under this Agreement upon reaching the age of majority.

The Assignee will do so but will not be liable, however, for any payment made prior to receipt of the request or so soon thereafter that payment could not reasonably be stopped.

- iv. Consent to Qualified Assignment. The Claimant acknowledges and agrees that the District (“the Insured”) and/or the District’s Insurer (“Insurer”) may make a “qualified assignment”, within the meaning of Section 130(c) of the Internal Revenue Code of 1986, as amended, of the Insured’s and/or the Insurer’s liability to make the Periodic Payments set forth in Section 2.2 to American General Annuity Service Corporation (“the Assignee”). The Assignee's obligation for payment of the Periodic Payments shall be no greater than that of Insured and/or the Insurer (whether by judgment or agreement) immediately preceding the assignment of the Periodic Payments obligation.
- v. Any such assignment, if made, shall be accepted by [REDACTED] (“the Claimant”) without right of rejection and shall completely release and discharge the Insured and the Insurer from the Periodic Payments obligation assigned to the Assignee. The Claimant recognizes that, in the event of such an assignment, the Assignee shall be the sole obligor with respect to the Periodic Payments obligation, and that all other releases with respect to the Periodic Payments obligation that pertain to the liability of the Insured and the Insurer shall thereupon become final, irrevocable and absolute.
- vi. Right to Purchase an Annuity. The Insurer, itself or through its Assignee, will fund the liability to make the Periodic Payments through the purchase of an annuity policy from American General Life Insurance Company. The Insurer or the Assignee shall be the sole owner of the annuity policy and shall have all rights of ownership. The Insurer or the Assignee may have American General Life Insurance Company mail payments directly to the Payee(s). The Claimants shall be responsible for maintaining a current mailing address for Payee(s) with American General Life Insurance Company.
- vii. Discharge of Obligation. The liability and obligation assumed by Assignee to make each of the payments in the amount and at the time set forth in Section 1.d of this Settlement Agreement shall be discharged pro tanto upon payment of each amount specified in this Settlement Agreement. Each payment contemplated in this Settlement Agreement shall be deemed made upon the mailing of a valid check or electronic transfer in the amount due to the address or bank account so designated in writing by said Payee. If said Payee notifies Assignee that any check so mailed was not received and upon receipt of written notification, Assignee shall direct the

Annuity Issuer to initiate a stop payment action for such check and upon confirmation that such check was not previously negotiated shall promptly have the Annuity Issuer issue and mail a replacement check. If said Payee notifies Assignee that any scheduled EFT payment was not received and upon receipt of written notification, Assignee shall direct the Annuity Issuer to initiate a trace for such payment and upon confirmation that such payment was not credited to the account shall promptly have the Annuity Issuer issue an EFT replacement.

2. Release. In consideration for the Settlement Payment set forth in Section 1, along with other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Plaintiffs hereby fully, finally and forever waive, release, and discharge the Defendants and their respective current and former board members, employers, employees, affiliates, successors, assigns, officers, agents, insurers, servants, representatives, and all other entities affiliated with or related to Defendants, in both their personal and official capacities, including specifically but in no way limited to, Lydia Messenger ("Released Parties"), without limitation, exception or reservation, from any and all liability, actions, claims, demands or lawsuits which the Plaintiffs may have had or presently have in connection with or arising in any manner from I.E.'s attendance as a student of the District, or her interactions with J.W. or any other student or any other employee or agent of the District up to and including the date of the execution of this Agreement, including any torts causing physical or personal injury, arising out of the acts or failures to act of the Released Parties, and asserted as the basis of this Agreement. This release applies to any and all claims, known or unknown, arising under contract, federal, state or local statutory or common law (including civil tort) law, which could have been asserted now, including, but not limited to, any and all claims under Kansas Act Against Discrimination, the Kansas Tort Claims Act, Title IX of the Education Amendments of 1972, 42 U.S.C. § 1983, the Individuals with Disabilities Education Act, 20 U.S.C. § 1400, *et. seq.*, the Kansas and United States Constitutions and any other federal, state or local laws that in any way relate to the above-referenced allegations, including claims arising under federal or state civil rights or human rights laws.

3. Hold Harmless. As further consideration for the Settlement Payment, Spencer Edgin agrees to indemnify and hold harmless the Released Parties of any and all liens, including attorney's liens, health care liens, Medicare/Medicaid liens, ERISA liens, personal injury protection liens, or other liens arising out of the allegations in the Lawsuit. Additionally, notwithstanding the releases detailed in Section 2 above, in the event that I.E., upon reaching the age of majority, initiates any claim, cause of action, demand, suit, action, or other proceeding of any kind, at law or in equity, against any of the Released Parties regarding any matter released in Section 2 above, Spencer Edgin hereby agrees he shall indemnify and hold harmless the Released Parties from and against all losses, liabilities, judgments, claims, causes of actions, litigation, proceedings, actions or investigations (including any fees or costs of legal counsel incurred in connection therewith) incurred or suffered by the Released Parties in any way, directly or indirectly, as a result of such claim, cause of action, demand, suit, action, or other proceeding. The indemnification under this section shall survive the termination of this Agreement.

4. Dismissal. Within five (5) days of receipt of the Settlement Payment, Spencer Edgin will dismiss the operative complaint in the Lawsuit and all claims therein, *with prejudice* and each party to bear its own costs.

5. Court Approval. Because Plaintiff I.E. is a minor, the Parties acknowledge this Agreement must be approved by the Court under applicable law. The Parties agree to work together cooperatively to jointly prepare the approval documents and take necessary steps to obtain the Court's approval of this Agreement.

6. Third Party Beneficiary. Lydia Messenger is a third party beneficiary to this Agreement and is entitled to enforce its terms.

7. Class Schedule Requests. The District agrees to grant I.E. an intradistrict transfer to a different middle school and/or high school if I.E. would like to avoid attending the same school building as J.W. If, however, I.E. attends the same school building as J.W., the District agrees to consider, and grant when possible, her parents' request that I.E. be moved to a different class section or elective if moving I.E. would avoid her presence in the same classroom as J.W. The Edgin parents, Spencer and Melissa Edgin, recognize it will be the parents' obligation to make class change requests within a reasonable time after receiving I.E.'s class schedule.

8. Confidentiality. Plaintiffs agree they shall keep the facts and terms of this Agreement confidential, except that Plaintiffs are authorized to discuss the facts and terms of this Agreement with any attorneys, financial advisors, or tax professionals acting on Plaintiffs' behalf relating to the Agreement. Plaintiffs agree they shall respond to any inquiries about the Lawsuit or Agreement by stating only that the Lawsuit and its related allegations were resolved to the satisfaction of all Parties.

9. Amendments. Neither this Agreement nor any of its terms may be changed, waived or added to except in a writing signed by the Parties.

10. Severability. The Parties agree that should any provision in this Agreement be determined to be unenforceable, such determination shall not affect the enforceability of the remaining provisions of this Agreement. The terms of this Agreement have been negotiated by the parties, with the assistance of their respective counsel, and the parties agree that in litigation involving this Agreement, if any, the fact of the draftsmanship shall not be construed against any party.

11. Access to Legal Counsel. The Parties stipulate and acknowledge that each has been represented by counsel throughout the settlement process and has decided, with the advice of counsel and free of any duress or coercion, to enter into this Agreement.

12. Entire Agreement. The Parties declare and represent that no promise, inducement, representation or agreement not contained in this Agreement has been made; that no other consideration has been or will be furnished in connection with this Agreement; that they will not make a claim and hereby waive any rights they may now have or may hereafter have based upon any alleged oral alteration, amendment, modification or any other alleged change in this

Agreement; that this Agreement contains the entire agreement between the Parties concerning the subject matter hereof; and that the terms of this Agreement are contractual and not a mere recital.

13. Authority. Each individual executing this Agreement on behalf of a non-individual Party hereto warrants and represents that he or she is fully empowered and authorized to bind the non-individual Party for which he or she purports to execute this Agreement.

14. Counterparts. This Agreement may be executed in counterparts, each of which shall together constitute one and the same Agreement. The Parties agree that the executed counterparts may be delivered to the other party by facsimile transmission or electronic mail, and that such facsimile or electronic mail copies shall be deemed original copies. But, in any event, fully executed originals shall be forwarded to all counsel promptly.

15. Read and Understood. The Plaintiffs further acknowledge, confirm, and agree that they have read this Agreement and understand each of the terms of this Agreement.

16. Governing Law. This Agreement shall be governed by, construed and interpreted according to the laws of the State of Kansas, without reference to conflicts of law principles.

IN WITNESS WHEREOF, the undersigned have executed this Minor Settlement Agreement and General Release.

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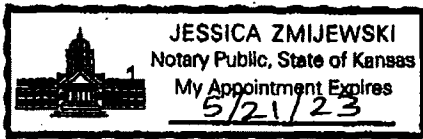
SPENCER EDGIN, INDIVIDUALLY AND AS
NEXT FRIEND FOR [REDACTED]

[Signature]

STATE OF KANSAS

COUNTY OF Johnson)
) ss.

On this 9 day of September, 2021, appeared before me Spencer Edgin,
known to me to be the person executing this Agreement, and doing so of his own free act and deed.



Jessica Zmijewski
NOTARY PUBLIC

My Commission Expires 5/21/2023

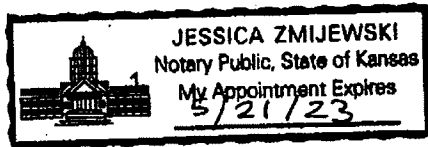
MELISSA EDGIN, INDIVIDUALLY

M. Edgin

STATE OF KANSAS)

COUNTY OF Johnson) ss.

On this 9 day of September, 2021, appeared before me Melissa Edgin, known to me to be the person executing this Agreement, and doing so of her own free act and deed.



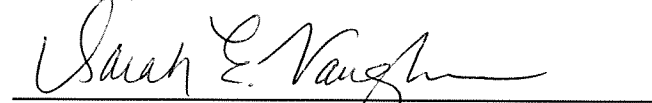
Jessica Zmijewski
NOTARY PUBLIC

My Commission Expires 5/21/2023

BLUE VALLEY U.S.D. 229


BY: DR. TONYA MERRIGAN,
SUPERINTENDENT

ATTEST:


CLERK, BOARD OF EDUCATION