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Attorneys for Respondent Troy Soto

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IN THE MATTER OF THE	:	STATE OF NEW JERSEY
TENURE CHARGES AGAINST:	:	DEPARTMENT OF EDUCATION
TROY SOTO,	:	
	:	Agency Dkt. Docket No. 257-10/18
CITY OF TRENTON BOARD	:	
OF EDUCATION, MERCER	:	Before Melissa Biren, Arbitrator
COUNTY, NEW JERSEY	:	
	:	Administrative Action
	:	
	:	STIPULATION OF SETTLEMENT

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The Trenton Public Schools (the "Board"), whose principal office is located at 108 N. Clinton Avenue, Trenton, New Jersey, and its successors, assigns, officers, employees, agents and representatives (collectively, "School Board"), and Troy Soto, having an address at 334 Harrison Street, Passaic, NJ 07055 ("Respondent") (collectively, the "Parties") have voluntarily resolved all disputed matters and enter into the following Stipulation of Settlement, which fully disposes of all issues in controversy between them in full and complete settlement of all outstanding issues as detailed below.

WHEREAS Respondent is a tenured teaching staff member employed by the Board as a teacher; and

WHEREAS the Board certified the above-captioned tenure charges regarding excessive absenteeism and incapacity to the Commissioner of Education of the State of New Jersey, and

WHEREAS, Respondent filed an answer opposing the charges; and

WHEREAS the Commissioner of Education, having reviewed the charges and Respondent's answer, determined that the charges were sufficient, if true, to warrant dismissal or reduction in compensation, and accordingly referred the matter to Arbitrator Melissa Biren ("Arbitrator") for a hearing; and

WHEREAS, Respondent has denied the allegations set forth in the tenure charges; and

WHEREAS, the Parties are aware of the uncertainty of the outcome of arbitration; and

WHEREAS, the Board having stringent budget limitations, and due to the expenditure of resources resulting from multiple days of hearings with numerous witnesses, and the concern that school personnel will be removed from their educational duties and responsibilities during that time, the Parties wish to resolve this matter in accordance with the terms set forth herein rather than proceed with arbitration; and

WHEREAS the proposed Stipulation of Settlement is in the best interest of the Parties and the public because Respondent voluntarily resigns from his employment without litigation and avoids an uncertain conclusion after protracted and costly proceedings at the expense of the public;

NOW, THEREFORE, subject to approval by the Arbitrator, the Parties hereby agree as follows:

1. Concurrent with the execution of this Stipulation, Respondent shall submit an irrevocable letter of resignation to the Board, which shall provide for his resignation from the Board effective end of day on May 24, 2019 ("Effective Date"). (See Exhibit "A," to the Stipulation, a copy of Respondent's signed letter of resignation).
2. Upon final approval of the signed Stipulation by the Arbitrator, the Board shall and hereby does withdraw the instant Tenure Charges. The Board agrees to not pursue the subject Tenure Charges against Respondent as long as this Stipulation remains in effect and is not voided by any court or administrative agency of competent jurisdiction. In the event the Stipulation is voided, the Board retains the right to file and consider for certification, tenure charges against Respondent, including those tenure charges which have been previously filed against him by the Board, and Respondent reserves the right to defend same.
3. Upon final approval of the signed Stipulation by the Arbitrator, Respondent will be returned to the payroll (retroactively if necessary) from January 24, 2019, and will remain on the payroll through end of day on May 24, 2019. All salary paid for said period shall be subject to all applicable and mandatory salary withholdings and deductions, including, but not limited to health insurance premium contributions. Respondent will be recorded as an employee on administrative leave with pay between January 24, 2019 and May 24, 2019.
4. The Board shall provide Respondent with health insurance coverage until May 24, 2019. Pursuant to Chapter 78, Respondent shall be responsible for his employee contribution for all health insurance provided pursuant to this Stipulation of

Settlement. Respondent's required Chapter 78 contributions shall be deducted from the payments he will receive pursuant to Paragraph 3 of this Stipulation of Settlement.

5. This Stipulation is based upon the understanding that Respondent's separation from employment with the Board, effective May 24, 2019, is and shall be deemed a voluntary resignation in good standing. Upon inquiry from any third party to authorized employees or representatives of the Board, those employees or representatives will provide no information other than to confirm Respondent's employment, position, salary and dates of employment, and state that the reason for his separation from employment was his voluntary resignation.

6. The Board expressly reserves the right to oppose any application by Respondent for unemployment benefits. Notwithstanding any other term or condition of this Agreement, Respondent does not waive or release his right to seek unemployment compensation, his entitlement to which shall be determined by the State of New Jersey, Department of Labor and Workforce Development.

7. In accordance with N.J.A.C. 6A:3-5.6 (a) 6, Respondent has been advised of the Commissioner's duty to refer tenure determinations resulting in loss of position to the State Board of Examiners. The Board acknowledges and represents that the allegations and evidence underlying the subject tenure charges addressed Respondent's alleged incapacity in the form of absenteeism occasioned by medical and/or other legitimate causes, and not any allegation of conduct unbecoming a teaching staff member, or other just cause.

8. As of the Effective Date, all of Respondent's rights of employment with the Board, including but not limited to accrued salary, benefits, tenure and seniority, will permanently end.

9. Respondent will not apply for reemployment with the Board at any time. If Respondent does apply for reemployment with the Board and is approved for employment, the terms of this Agreement shall control and shall be grounds for termination of Respondent's employment.

10. In exchange for the consideration set forth in paragraphs 2, 3, and 4 above, the sufficiency of which is hereby acknowledged, Respondent, through the date of his resignation, hereby waives, releases and discharges any and all claims or rights that he has or may have against the Board, the Superintendent, its Board of Education and its members, and any and all other Board officers, employees, representatives, agents, successors and assigns (collectively, the "Released Parties") including any claim for attorneys' fees, costs or other monetary relief. This waiver, release and discharge includes, without limitation, any and all actions, claims, and liabilities of whatsoever kind or character, in law or in equity, now known or unknown, suspected or unsuspected, directly or indirectly related to Respondent's employment with the Board or separation from employment with the Board. It specifically includes, without limitation, all claims which Respondent may have regarding tenure, withholding of increment, discrimination on any basis, any federal or state civil rights law, any alleged violation of the Age Discrimination in Employment Act, as amended; the Older Worker Benefits Protection Act; Title VII of the Civil Rights Act of 1964, as

amended; Sections 1981 through 1988 of Title 42 of the United States Code; the Civil Rights Act of 1991; the Equal Pay Act; the Americans with Disabilities Act; the Rehabilitation Act; the Family and Medical Leave Act; the Fair Labor Standards Act; the Employee Retirement Income Security Act of 1974, as amended; the Worker Adjustment and Retraining Notification Act; the National Labor Relations Act; the Fair Credit Reporting Act; the Occupational Safety and Health Act; the Uniformed Services Employment and Reemployment Act; the Employee Polygraph Protection Act; the Immigration Reform Control Act; the retaliation provisions of the Sarbanes-Oxley Act of 2002; the False Claims Act; the New Jersey Law Against Discrimination; the New Jersey Conscientious Employee Protection Act; the New Jersey Family Leave Act; the New Jersey Wage and Hour Law; the New Jersey Equal Pay Law; the New Jersey Occupational Safety and Health Law; the New Jersey Smokers' Rights Law; the New Jersey Genetic Privacy Act; the New Jersey Fair Credit Reporting Act; New Jersey Wages and Hours Law, disability benefits laws, retaliation provisions of the New Jersey Workers' Compensation Law; the United States Constitution, the New Jersey Constitution; and/or any other alleged violation of any federal, state or local law, regulation or ordinance; any claim based on contract, implied contract, collective bargaining agreement, tort law, personal injury, or public policy, having any bearing whatsoever on his employment by and/or termination of her employment with the Board, including but not limited to any claim for wrongful discharge, back pay, vacation pay, sick pay, wages, attorneys' fees, costs, and/or future wage loss. Respondent agrees to withdraw any and all other pending complaints or actions

that have been filed against the Board or any of its employees or representatives. This paragraph shall not apply to claims for unemployment compensation, or to claims for Workers' Compensation.

11. To comply with the Older Workers Benefit Protection Act, if applicable, this Stipulation of Settlement advises Respondent of the legal requirements of the Act and fully incorporates the legal requirements by reference into this Stipulation of Settlement. Accordingly, by executing this Stipulation, Respondent acknowledges that he: (i) fully understands the terms and conditions of this Stipulation of Settlement; (ii) has consulted with an attorney to review the Stipulation of Settlement; (iii) specifically waives his right to pursue any current claims he may have under the Age Discrimination in Employment Act; (iv) has been given sufficient time within which to consider this Stipulation of Settlement; and (v) has seven (7) days from the date of the execution of this Stipulation of Settlement to revoke it. Respondent understands that he may rescind this Agreement within seven (7) calendar days of signing it, and such rescission must be in writing and delivered to counsel for the Board either by hand or by certified mail within the seven (7) day period.

12. Respondent warrants that he has not commenced any legal proceedings of any type (including but not limited to charges filed with any governmental agency) against the Board or School Board. Further, Respondent agrees that he will not commence any legal proceedings against the Board or School Board arising from or relating to anything that has happened up to his date of resignation. Should any such

legal proceedings be commenced on Respondent's behalf, Respondent agrees that he will not seek or accept any relief or recovery therefrom. In the event of a violation of this paragraph, Respondent agrees that the Board and School Board shall be entitled to immediate dismissal of the legal proceedings, and that he shall be responsible for the Board and School Board's attorneys' fees and costs incurred in connection with those legal proceedings. Should any entity, agency, commission, or person file a charge, action, complaint or lawsuit against the Board or School Board based upon any of the above-released claims in Paragraph 3, Respondent agrees not to seek or accept any resulting relief whatsoever, in accordance with this paragraph. This paragraph shall not apply to claims for unemployment compensation.

13. This Stipulation and all of its terms, are and will remain confidential to the maximum extent permitted by law, including the Open Public Records Act, N.J.S.A. 47:1A-1, et al. Respondent is expressly forbidden from discussing this Stipulation with any person, other than his accountant, tax advisor and attorney ("permitted disclosures") and any other individual or entity as necessary to implement the Stipulation or to which he is legally obligated to respond ("legally-required disclosures"). In making any permitted disclosure, Respondent agrees that he will inform the person to whom it is making the permitted disclosure that the existence and substance of this Stipulation, the settlement giving rise to this Stipulation and the sum of money paid pursuant to this Stipulation are to be held strictly confidential to the fullest extent permitted by law. Respondent specifically agrees not to discuss the nature, terms, conditions of this Stipulation with others, any representative of



the media, or any past, present, or prospective employee of the Board, or its agents or attorneys. Respondent understands that this provision is not a simple recital but is an important, integral part of this Stipulation. The Board agrees that it will keep this Stipulation confidential to the extent permitted by law, including the Open Public Records Act, N.J.S.A. 47:1A-1, et seq. ("OPRA"). In the event that the Board receives an OPRA request, for which this Stipulation would be responsive to, the Respondent understands that the Board is legally obligated to disclose same under OPRA and that such disclosure would not be a breach of this Stipulation.

14. This agreement shall not constitute a precedent in any matters involving other Board employees.

15. The Parties each acknowledge that counsel has advised them regarding this Stipulation and that each is signing this Stipulation freely and voluntarily, without duress, coercion or pressure from the other party, with full understanding of its terms and conditions and consents to the terms contained herein.

16. Each signatory to this Stipulation understands, acknowledges and agrees that this Stipulation constitutes the full agreement of the parties and may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a duly executed writing signed on behalf of both Parties.

17. This Stipulation shall be construed and enforced in accordance with New Jersey law. The Commissioner of Education and/or federal and state courts of the State of New Jersey, as applicable in accordance with such law, shall have exclusive

jurisdiction over any dispute arising from, in connection with, or related to this Stipulation.

18. This Stipulation may be executed in counterparts with the same effect as if the signatures hereto and thereto were upon the same instrument. Each counterpart will be deemed an original, which taken together shall constitute a single instrument. Facsimile signatures or signatures in electronic Portable Document Format ("PDF") shall be construed and have the same force and effect as original signatures.

19. This Stipulation or any uncertainty or ambiguity therein shall not be construed against any party, but shall be construed as if both Parties to this Stipulation jointly prepared this Agreement.

20. Each party acknowledges that this is the entire agreement of the Parties concerning the subject matter of the foregoing paragraphs, and that there are no written or oral representations, understandings or agreements directly or indirectly connected with this Stipulation.

21. If any provision of this Stipulation is held by a court of competent jurisdiction or determined under applicable law to be invalid, void, or unenforceable, the remaining provisions will continue and remain in full force and effect.


22. Additionally, this Stipulation is subject to final approval by the Arbitrator pursuant to N.J.A.C. 6A:3-5.6(c), and will become effective only upon approval by the Arbitrator. Counsel for the Parties shall jointly request the Arbitrator's approval of

this Agreement and each shall take any and all necessary steps to effectuate dismissal of the Tenure Charges.

**IT IS SO AGREED**

TROY SOTO

Dated: 1-18-19

  
Troy Soto

TRENTON PUBLIC SCHOOLS  
BOARD OF EDUCATION

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

By: 

Gene Bouie/Board President

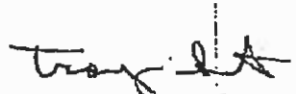
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**CERTIFICATION**

I, Troy Soto, hereby certify that I have reviewed this Agreement and fully understand its meaning and terms. I acknowledge that my attorney questioned my understanding and verified my acceptance of the terms of this Agreement. I am satisfied with my representation and I enter into this Agreement voluntarily.


I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: 1.18.19

  
Troy Soto

**CERTIFICATION OF CONSENT TO SETTLEMENT TERMS PURSUANT TO  
N.J.A.C. 6A:3-5.6(b):**

Dated: 1/30/19

  
Adam S. Herman, Esq.  
ADAMS GUTIERREZ &  
LATTIBOUDERE  
Attorneys for the Trenton City Public  
Schools Board of Education

**APPROVED:**

Dated: 2/9/19

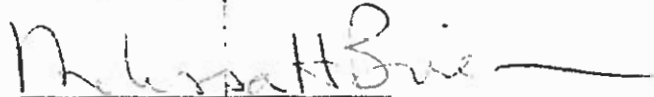
  
Melissa Biren, Arbitrator

EXHIBIT "A"

**Troy Soto**  
334 Harrison Street  
Passaic, NJ 07055

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January 10, 2019

Dr. Frederick McDowell, Superintendent  
Trenton Public Schools Board of Education  
108 N. Clinton Avenue  
Trenton, NJ 08609

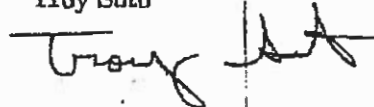
**Re: Letter of Resignation**

Dear Superintendent McDowell:

Please accept this letter as my irrevocable resignation from employment with the Trenton City Public Schools, for personal reasons, effective at the close of business on May 24, 2019.

Very truly yours,

Troy Soto



1-18-19

cc: Arnold Mellk, Esq.

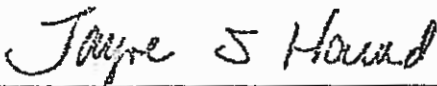
RESOLUTION AUTHORIZING APPROVAL OF  
SETTLEMENT AGREEMENT  
WITH TROY SOTO

- WHEREAS, the Trenton Board of Education has reviewed the Settlement Agreement between Troy Soto and the Board of Education in regard to Docket No. 257-10/18 and
- WHEREAS, the Board has voted on this date to accept the Settlement Agreement with Troy Soto; and
- WHEREAS, the Board designates and authorizes the Board President to execute the Settlement Agreement on the Board's behalf, now therefore be it
- RESOLVED that the Trenton Board of Education approves the Settlement Agreement between Troy Soto and the Board of Education



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Gene Bouie  
Board President



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Jayne S. Howard  
School Business Administrator/Board Secretary

January 28, 2019  
ADOPTED