

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release is entered into by and between Adam Mistic ("Mistic") and the Board of Education of the Elida Local School District ("Board") and the Elida Education Association, OEA/NEA ("EEA").

WHEREAS, Mistic was employed by the Board as a custodian at Elida High School; and,

WHEREAS, the Board's Superintendent recommended to the Board that Mistic's employment be terminated; and,

WHEREAS, the Board acted on the Superintendent's recommendation; and,

WHEREAS, Mistic filed an appeal with the Allen County Common Pleas Court, Case No. CV-2019-0391, which has been scheduled for a hearing; and,

WHEREAS, Mistic and EEA also filed a charge alleging that the Board had committed an unfair labor practice with the State Employment Relations Board ("SERB"), Case No. 2019-ULP-12-0234, to which the Board has responded denying the allegations, and

WHEREAS, Mistic and the Board have reached an Agreement to settle their differences and to terminate the above appeal and SERB charge.

In consideration of the mutual covenants contained herein and intending to be legally bound hereby, the parties agree as follows:

1. The Board will withdraw from Mistic's personnel file all copies of the minutes of the Board's September 17, 2019 meeting and all correspondence referencing or related to the matter giving rise to the Superintendent's recommendation.
2. Mistic and the Board acknowledge that the documents referenced in paragraph 1, above, may be retained by the Board in a separate file together with a copy of this Agreement.
3. In reliance upon the promises set forth herein, Mistic will submit the letter of resignation attached to this agreement as Attachment 1, a copy of which will be placed in Board's personnel file regarding Mistic.
4. Within three (3) business days after execution of this Agreement, Mistic will file with the Allen County Common Pleas Court a copy of the Notice of Dismissal with Prejudice that is attached to this Agreement as Attachment 2.
5. Within three (3) business days after execution of this Agreement, Mistic and EEA will file with the SERB a copy of the Notice of Dismissal with Prejudice that is attached to this Agreement as Attachment 3.

6. The Board will pay Mistic Four Thousand Dollars (\$4000.00) within thirty (30) days following confirmation of the items set forth in paragraphs 4 and 5. Said payment will be made solely as an inducement to the withdrawal of the pending court and SERB matters referenced in the preamble to this Agreement, and shall not be considered as wages paid to Mistic nor as an admission of any wrongdoing on the part of the Board, its agents, officials or employees less any required withholdings for taxes.
7. Mistic agrees that he will not apply for future employment with the Board, and that should he nonetheless seek such employment the Board may and will refuse such employment.
8. The Board maintains that it did not engage in conduct that would amount to a violation of R.C. 4117.11(A)(1), (2) or (3) with respect to any efforts by EEA and Mistic or other non-teaching employees to organize a collective bargaining unit. The Board affirms that it will not interfere with the formation of any employee organization, in violation of R.C. 4117.11(A)(3) and affirms that the Board and its agents will maintain a stance of neutrality on the union organizing campaign in all oral, written, and electronic communications. The Board or its agents will not conduct any individual or group meetings with any employees to oppose the organizing campaign, but may conduct individual or group meetings to answer questions asked by employees which were not solicited by the Board or agents, respond to rumors, correct inaccurate information, or engage in other communications that do not oppose the organizing campaign. The Board will post for a period of 30 days in the staff break room of each school building a notice setting forth the second and third sentences of this paragraph.
9. In exchange for the consideration promised to Mistic in this Agreement, Mistic, on behalf of himself and his personal representatives, successors, next of kin, minor children, heirs, and assigns, hereby forever releases and discharges the Board, and the Board's predecessors, successors, personal representatives, insurers, attorneys, and assigns, as well as past and present officers, board members, trustees, employees, partners, agents, employees, both individually and in their business capacities, (collectively referred to throughout the remainder of this Agreement as "Releasees") from any past, present, or future claims, liabilities, demands, promises or causes of action, known and unknown, asserted or unasserted, he may have against Releasees as of the date of execution of this Agreement, including, but not limited to, any claims arising out of Mistic's employment with the Board, any alleged violation of Title VII of the Civil Rights Act of 1964 and the Civil Rights Act of 1991, Sections 1981 through 1988 of Title 42 of the United States Code, the Employee Retirement Income Security Act of 1974 ("ERISA") (except for any vested benefits under any tax qualified benefit plan), the Americans with Disabilities Act, the Age Discrimination in Employment Act ("ADEA"), the Workers Adjustment and Retraining Notification Act, the Fair Credit Reporting Act, any alleged violation of federal, state or local law, including but not limited to state law equal employment opportunity claims, claims under R.C. Chapter 4117, disputed wage claims, including claims for any back wages, accrued time off, or overtime; any other federal, state or local law, rule, regulation, or ordinance; any public policy, contract, tort, or common law, including but not limited to, for personal injuries, harassment, sexual harassment, hostile work environment, quid pro quo harassment, assault, battery, retaliation, constructive discharge, discrimination, invasion of privacy, defamation, loss of services, loss of consortium, and infliction of

emotional distress (collectively "Mistic's Released Matters"); and any basis for recovering costs, fees, or other expenses including attorneys' fees incurred in Mistic's Released Matters. Mistic acknowledges and agrees that this Agreement is a final and general release.

10. The EEA agrees not to initiate, bring, and/or file any further claim of any kind on behalf of itself or Mistic arising out of Mistic's termination from employment with the Board.
11. In exchange for the consideration set forth herein, the Board hereby releases and discharges Mistic from any past, present, or future claims, liabilities, demands, promises or causes of action, known and unknown, asserted or unasserted, it may have against Mistic, arising from or related in any way to his employment with the Board as of the date of execution of this Agreement. The Parties intend and agree that the Board's release and discharge of claims in regard to Mistic as set forth above is identical in scope and breadth to Mistic's release and discharge of claims in regard to the Board.
12. Nothing in this Agreement or the releases contained herein waives rights or claims that: (a) arise after the date this Agreement is executed; (b) relate to a breach of this Agreement; or (c) may not, as a matter of law, be waived.
13. The Parties enter this Agreement to save the costs and expenses of litigation. This Agreement and any negotiations or proceedings connected with it, will not in any event constitute or be construed as, or be deemed to be, evidence of an admission of or concession of any wrongdoing by any Party hereto.
14. Mistic further affirms that he has no known workplace injuries or occupational disease related to his employment with the Board.
15. Except as to claims brought to challenge the validity of this Agreement under the Age Discrimination in Employment Act, the Parties agree that in the event of a breach of any of the terms of this Agreement as determined by a Court of competent jurisdiction, the breaching Party will be responsible for all costs and expenses incurred by the non-breaching Party in enforcing this Agreement, including the non-breaching Party's reasonable attorneys' fees.
16. This Agreement contains the entire agreement between Mistic and the Board and supersedes any and all prior agreements, understandings, discussions, negotiations, and undertakings, whether written or oral between the Parties regarding matters related to or arising out of Mistic's employment or the matters that are the subject of the SERB charge referenced in the preamble to this Agreement. Provided however, that this paragraph does not apply to prior agreements, understandings, discussions, negotiations and undertakings, whether written or oral, with respect to the collective bargaining unit of the Board's teaching employees, which remain in full force and effect.
17. The Parties are entering into this Agreement and the transactions herein contemplated freely, knowingly, and voluntarily, and they are fully aware of the contents and effects of its terms. The Parties affirm the execution and delivery of this Agreement are not the result of any fraud, duress, mistake, or undue influence.

- For Board of Education of the Elida Local
School District

For Elida Education Association, OEA/NEA

494430

Attachment 1

To whom it may concern:

I hereby submit my resignation from employment with the Elida Local School District effective September 13, 2019 for personal reasons.

Randy Mystic

IN THE COURT OF COMMON PLEAS
ALLEN COUNTY, OHIO

ADAM MISTIC,) Case No. CV-2019-0391

APPELLANT,) Judge Jeffrey L. Reed

V.) **NOTICE OF DISMISSAL WITH PREJUDICE**

ELIDA LOCAL SCHOOL DISTRICT BOARD OF)
EDUCATION,) Christine A. Reardon (0034686)
) Edward J. Stechschulte (0085129)

APPELLEE.) KALNIZ, IORIO & REARDON CO., L.P.A.
) 5550 W. Central Avenue
) Toledo, Ohio 43615
) creardon@ioriolegal.com
) estechschulte@ioriolegal.com
) (419) 537-4825
) (419) 535-7732 (facsimile)

) *Attorneys for Appellant Adam Mistic*

Appellant Adam Mistic hereby gives notice that he is dismissing with prejudice the above-captioned action.

Respectfully submitted,

Christine A. Reardon (0034686)
Edward J. Stechschulte (0085129)
KALNIZ, IORIO & REARDON CO., L.P.A.
5550 W. Central Avenue
Toledo, Ohio 43615
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estechschulte@ioriolegal.com
(419) 537-4825
(419) 535-7732 (facsimile)

Attorneys for Appellant Adam Mistic

CERTIFICATION

This is to certify that on the _____ day of _____, 2020 a true and accurate copy of the foregoing was served electronically to lpizza@snlaw.com for Lisa E. Pizza, Spengler Nathanson P.L.L., 900 Adams Street, Toledo, Ohio 43604, attorneys for Respondent Elida Local School District Board of Education

BEFORE THE STATE EMPLOYMENT RELATIONS BOARD

**Adam Mistic & Elida Education
Association, OEA/NEA**

) Case No. 2019-ULP-12-0234

V.

)

Notice of Withdrawal of Charge and Dismissal with Prejudice

Elida Local School District Board of Education

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* * * * *

Now come charging parties, Adam Mistic and the Elida Education Association, EEA/NEA, and give Notice that they are hereby withdrawing with prejudice and dismissing their charge in the above-captioned case.

Respectfully submitted,

/s/ Christine A. Reardon
Kalniz, Iorio & Reardon Co. L.P.A.
5550 West Central Avenue
Toledo, Ohio 43615

*Attorneys for Adam Mistic and
Elida Education Association,
OEA/NEA*

CERTIFICATION

This is to certify that on the _____ day of _____, 2020 a true and accurate copy of the foregoing was served electronically to lpizza@snlaw.com for Lisa E. Pizza, Spengler Nathanson P.L.L., 900 Adams Street, Toledo, Ohio 43604, attorneys for Respondent Elida Local School District Board of Education

/s/ Christine A. Reardon