

**PRESENTED AT****32<sup>nd</sup> Annual School Law Conference**February 23 – 24, 2017  
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# SETTLEMENT AGREEMENTS FOR THE 21<sup>ST</sup> CENTURY

**Kevin F. Lungwitz - Austin, Texas**  
**Lisa McBride - Houston, Texas**  
**February 23-24, 2017**

Resolving employment disputes can be a long, and frequently contentious, process. And, once a school district and employee have agreed on terms to mutually part ways, the process is not over: the parties must reduce their agreement to writing. Lawyers for each side naturally approach the agreement drafting process wanting language that provides the most protection for their clients' respective positions, but this instinct, more times than not, results in written agreements that are overly legalistic and hard to follow. Below, we offer sample language for some of the most disputed agreement provisions.

## **I. THE PREAMBLE**

DISTRICT and EMPLOYEE wish to resolve any disputes between them in a mutually satisfactory and beneficial manner. They voluntarily execute this Settlement and Full and Final Release Agreement ("Agreement") with the express intention of settling and extinguishing all obligations, demands, claims, causes of action, and liability of whatever nature arising from the lawsuit styled as Civil Action No. \_\_\_\_\_ (hereinafter referred to as "THE LAWSUIT") and any other obligations, demands, claims, and/or causes of action arising from EMPLOYEE'S employment with the DISTRICT, that were or could have been raised by EMPLOYEE as part of her LAWSUIT. This Agreement is entered into on behalf of the DISTRICT, its officers, employees, agents, attorneys, heirs, and successors, and EMPLOYEE, her agents, attorneys, affiliates, heirs, and successors.

\* \* \* \* \*

This Separation Agreement and Release of All Claims ("Agreement") is entered into by and between EMPLOYEE and DISTRICT. As used in this Agreement, references to DISTRICT include any of its past, present, and future officers, employees, and agents.

EMPLOYEE AND DISTRICT desire to terminate all past, present, and potential controversies between them. In consideration of the promises and mutual covenants set forth in this Agreement, the adequacy and sufficiency of which are hereby acknowledged, EMPLOYEE AND DISTRICT agree as follows

\* \* \* \* \*

The DISTRICT and EMPLOYEE wish to resolve any disputes between the parties in a mutually satisfactory and beneficial manner. They voluntarily execute this Full and Final Release

Agreement ("Agreement") with the express intention of settling and extinguishing all obligations, demands, claims, causes of action, and liability of whatever nature arising from EMPLOYEE's grievance complaint. This Agreement is entered into on behalf of the DISTRICT, its officers, employees, agents, attorneys, heirs, and successors and EMPLOYEE, her agents, attorneys, affiliates, heirs, and successors. This Agreement is subject to the following terms and conditions:

## II. RELEASES

Releases should be commensurate with the scope of the dispute. One-size does not fit all. A release appropriate to resolve a lawsuit asserting claims under several statutes is most likely overkill for purposes of a run-of-the-mill employment grievance. Below, we provide sample releases that vary in scope.

\* \* \* \* \*

1. EMPLOYEE releases, acquits and fully discharges, in both their individual and official capacities, DISTRICT and its respective Board members, officers, departments, employees, agents, servants, representatives, attorneys, risk pool or insurers, and their attorneys, officers, agents and employees; and their successors, heirs and assigns from any claims or demands for compensation, consequential damages, personal damages, or any of these damages, of whatever nature or extent, of whatever kind or character, known and unknown, State or Federal, including, but not limited to the Texas Open Meetings Act, charges of or suits for discrimination of any kind under the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 621-634, Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000a-2000h, the Americans with Disabilities Act 42 U.S.C. §12101-12213, Section 504 of the Rehabilitation Act or under the Texas Commission of Human Rights Act, the Texas Labor Code, wage claims under the Fair Labor Standards Act 29 U.S.C. §§206, et seq., any claims under ERISA, and any other federal or state anti-discrimination statutes, any Federal claim, statutory or constitutional, including but not limited to, claims made pursuant to 42 U.S.C. §1983, claims for payroll issues, claims for breach of contract arising from events occurring prior to the date of signing this Agreement, and any other legal, administrative or equitable claims, whether similar or dissimilar to any of the foregoing categories of claims, from acts occurring prior to the date of signing this Agreement, and arising from acts occurring prior to the date of signing this Agreement, and arising out of or in any way related to EMPLOYEE's employment or other relationship with DISTRICT, including any claim regarding any type of disability or failure to accommodate same, regardless of whether any such claims may be based in whole or in part on the negligence or intentional misconduct of DISTRICT. EMPLOYEE further agrees that this Compromise and Settlement Agreement resolves any Texas Education Agency, Equal Employment Opportunity Commission, Texas Workforce Commission – Civil Rights Division or any other administrative agency, State or Federal, internal claims pursuant DISTRICT Board policies DGBA (Legal) and (Local), administrative procedures and/or guidelines, existing, pending, or yet to be filed arising from events occurring prior to the date of signing this Agreement.

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"Settlement Agreements for the 21st Century"