

**SETTLEMENT AGREEMENT
CHRISTINA SCHOOL DISTRICT
and CHARTER SCHOOLS**

This Settlement Agreement, made as of December 2, 2016, by and between Christina School District ("**CSD**") and Las Americas Aspira Academy; La Academia Antonia Alonso; Delaware Academy Of Public Safety And Security; Eastside Charter School Of Wilmington, Inc.; Family Foundations Academy, Inc.; First State Montessori Academy Inc.; Freire Charter School Of Wilmington; Gateway Charter School, Inc.; Great Oaks Wilmington Charter School; Kuumba Academy Charter School, Inc.; Mot Charter School, Inc; Newark Charter School, Inc.; Odyssey Charter School, Inc.; Providence Creek Academy, Inc.; Thomas Edison Charter School Of Wilmington; ("**Charter School Plaintiffs**"); Ricardo Carrasquillo for his minor child S.C.; Clissita Patrick for her minor children K.B.P., N.P., J.P.H., K.P.H. and D.S.; Alexis Simms for her minor children, M.H., L.S. and K.S.; and Dalynne Vick for her minor children, E.V. and I.V. ("**Individual Plaintiffs**") (Charter School Plaintiffs and Individual Plaintiffs may be collectively referred to as "**Plaintiffs**").

RECITALS:

A. Charter School Plaintiffs, and certain other charter schools, serve students who are residents within the Christina School District ("**CSD**" and "**CSD Charter Schools**" respectively). Subject to certain exclusions set forth in 14 *Del. C.* §509 ("**Section 509**"), revenue raised from property taxes levied by CSD is to be shared among CSD and CSD Charter Schools so that each CSD student – whether attending a CSD school, a CSD Charter School or a school managed by another district – receives appropriate financial support.

B. In August, 2016, a dispute arose among the Delaware Department of Education ("**DOE**"), CSD and Charter School Plaintiffs regarding determinations made by DOE staff ("**August Decisions**") regarding the

sharing of local property tax revenue pursuant to Section 509. Prior to the August 12 posting of the determinations made by DOE staff, the Secretary of Education was not informed of the changes made by DOE staff regarding the 2003 Referendum revenue or the Match Tax revenue.

C. In early September, over Plaintiff's objections, the Secretary of DOE determined that no changes from the Exclusions allowed for FY'16 would be made for FY' 17. With this decision, the DOE altered its earlier determination and purported to permit CSD to enjoy the 2003 Referendum and Match Tax Exclusions from CSD's Total Local Operating Expenditures, thus reducing the share of local revenue to be distributed to CSD Charter Schools for FY'17 (DOE's "**September Decision**").

D. On October 4, Plaintiffs filed Civil Action No. 12800 VCG in the Delaware Court of Chancery, asserting that DOE, its Secretary, CSD and its CFO ("**Defendants**") breached Delaware law as a result of DOE's September Decision and that the civil rights of Individual Plaintiffs' children and Charter School Plaintiffs had been violated (the "**Lawsuit**").

E. On October 11, the Court agreed to give the Lawsuit expedited treatment culminating in either a trial or oral argument on the merits on December 12 and 13. The parties commenced intensive discovery.

F. The Plaintiffs and Defendants have reached a settlement agreement and wish to record the terms of such settlement. This agreement ("**CSD Agreement**") will memorialize the terms upon which Plaintiffs agree to release their respective claims against CSD and Robert Silber.

THEREFORE, in consideration of the mutual undertakings promised by Plaintiffs, Defendant Silber and CSD in this CSD Agreement, the sufficiency and adequacy of which consideration, including that given by Defendant Silber, is acknowledged, the Parties agree as follows:

1. **Recitals.** The above Recitals are incorporated in this CSD Agreement.

2. **2003 Referendum Revenue.**

a. CSD agrees that in FY '17 the revenue generated by the 10 cent levy authorized by the voters in Section II of the 2003 referendum (the "**2003 Referendum Revenue**") shall be divided by the total number of students residing in CSD and attending public schools in order to determine the per student share of the 2003 Referendum Revenue. By December 30, 2016, there shall be an allocation of the per student share of the 2003 Referendum Revenue to each CSD Charter School based upon the number of students residing in the CSD who attend each CSD Charter School. DOE will establish a unique appropriation number to be utilized by the CSD Charter Schools for the receipt of funds, and the recording of allowable expenses. All Parties agree that 2003 Referendum Revenue shall be restricted to the four programs identified in Section II of the 2003 Referendum ballot. All parties further agree that, in the annual certification of CSD's Local Cost Per Student pursuant to Section 509(e), both the 2003 Referendum Revenue and CSD's expenditures posted against those revenues will be ignored. In other words, such expenditures will be neither included in, nor excluded from, CSD's Total Local Operating Expenditures.

b. The 2003 Referendum Revenue generated in subsequent fiscal years (i.e. FY'18 and thereafter) shall be allocated to CSD Charter Schools in the manner set forth in Paragraph 2.a. above, subject to the restriction stated therein. In subsequent fiscal years, 80% of the anticipated 2003 Referendum Revenue shall be paid by November 7, and the balance shall be paid when DOE finalizes the Charter Bills. In the event there is a general reassessment of property values, all parties recognize that the 10 cent levy is subject to change in accordance with 14 *Del. C.* § 1916.

c. Because CSD's expenditures for FY'16 were \$6.03 Million,, and because the revenue calculation set forth in Paragraph 2.a. above will generate only \$5.5 Million to be shared among CSD, CSD Charter Schools and other district schools attended by CSD resident students, CSD agrees to a one-time payment to Charter School Plaintiffs in the amount of \$150,000 to offset this discrepancy for FY'17 only. This payment shall be made on or before December 30, 2016, and made payable to Saul Ewing LLP as escrow agent to be distributed as directed by the Charter School Plaintiffs.

d. DOE shall be responsible for assuring that the 2003 Referendum Revenue is used by the Charter Schools for one of more of the purposes approved by the voters in the 2003 referendum for the benefit of students residing within CSD, and the Charter Schools agree to use said revenue for that purpose.

3. Dismissal of Lawsuit; Releases by Plaintiffs.

a. Upon payment of the sums contemplated by this Agreement, but not later than December 30, 2016, Plaintiffs agree to execute a stipulation among Plaintiffs and Defendants pursuant to which the Lawsuit will be dismissed with prejudice, including the dismissal with prejudice of all claims against Robert Silber. The Parties agree that such dismissal shall include all claims that were brought, or which could have been brought, in the Lawsuit regarding FY'17 or any earlier fiscal year. Such dismissal, however, shall not have the effect of releasing any claim to be made by any Plaintiff in respect of any fiscal year after FY'17.

b. In particular, Plaintiffs are free to contend for fiscal 2018 and thereafter that Match Tax Revenues should be included in the calculation of Local Cost Per Student pursuant to Section 509. CSD is free to contend for fiscal 2018 and thereafter that Match Tax Revenues should not be included in the calculation of Local Cost Per Student pursuant to Section 509.

4. FY'18 and Beyond.

a. CSD acknowledges that DOE has agreed to prepare a memorandum on or before January 15, 2017, outlining the bases for its August Decisions and recommending a process to be used by DOE in the future for making the determinations required pursuant to Section 509, which process shall include:

- i. the opportunity for local districts to request DOE approval for Exclusions from Total Local Operating Expenditures, which requests shall be fully supported by the requesting district's explanation, noting the particular provision of Section 509 on which the requesting district relies and why the requested Exclusion is justified under Section 509;
- ii. DOE's tentative determination responding to each such requested Exclusion, together DOE's reasoning in support;
- iii. the opportunity for districts to discuss with DOE its tentative determination before such determination is made final and included within the annual certification required of DOE by Section 509;
- iv. prior to such annual certification, DOE will provide all charter schools with its tentative determinations regarding all Exclusions it proposes to approve, together with all information provided by requesting districts, and will afford the charter schools an opportunity to meet and discuss any such tentative determination; and

- v. DOE shall establish a schedule by which it proposes to meet each of the steps noted above so that districts and charter schools will know in advance of deadlines for their respective input into DOE's annual certification.

b. Tuition Analysis. CSD agrees to catalogue and describe, for DOE and CSD Charter Schools, those services provided by CSD to children with special needs ("**Special Needs Services**") that are funded, in whole or in part, with revenues generated by the levy of the so-called **Tuition Tax** by CSD. The objective of this undertaking is to determine whether CSD shall be financially responsible under Section 509(f) for funding the same or similar Special Needs Services provided by CSD Charter Schools to their CSD resident students. The Parties agree that discussion and interaction described in this subsection shall be conducted with cooperation and the shared interest in serving children with special needs. The Parties further agree that, where necessary, DOE's guidance and, in any individual case, decision shall be welcome. In any case in which a CSD Charter School asserts a right under Section 509(f) to receive Tuition Tax funding, CSD and DOE may satisfy themselves that the services being provided by a CSD Charter School in any individual case are the same or sufficiently similar to CSD's Special Needs Services so as to justify the sharing of Tuition Tax revenues. In order that the Parties can outline the scope of the inquiry to be performed under this Paragraph 4. B., CSD shall call for a meeting with representatives of Charter Schools no later than January, 15 2016.

5. Agreement Not Precedential. The parties further agree that they have reached agreement on the terms hereof for settlement purposes only and that such terms represent their respective decisions to seek compromise of claims and defenses that each continues to believe are meritorious. In that regard:

a. CSD's entry into this Settlement Agreement shall not constitute any sort of admission of wrongdoing or violation of any law by CSD, its agents or employees;

b. no release or waiver of claim by any Plaintiff shall bind that Plaintiff in any other dispute with a party other than any or all of the Defendants; and

c. Subject to Paragraph 2.d., no Plaintiff concedes that any restrictions asserted by CSD or any other district to be applicable to the expenditure of local operating revenues shall apply to those funds once in the hands of a charter school.

d. Nothing in this Agreement shall be deemed a waiver of any claims or defenses that CSD may have raised in the Lawsuit, including, but not limited to, jurisdictional and/or standing defenses.

6. Miscellaneous.

a. CSD Board Approval. This Settlement Agreement is expressly contingent upon the approval of the CSD School Board, which approval shall be given on or before December 1, 2016. Failure of such approval shall render this Settlement Agreement null and void.

b. Future Change of Law; Severability. In the event that either party asserts in the future that a change in law shall have rendered this Settlement Agreement unenforceable or impractical, that party shall bear the burden of demonstrating to the satisfaction of the Court presiding over the Lawsuit that an essential purpose underlying this Settlement Agreement shall be no longer attainable. In such event, the Court shall decide whether the entire Settlement Agreement has been rendered void an unenforceable or whether, instead, other terms of the Settlement Agreement, unaffected by such change in law, should, in equity, be enforced.

c. Delaware Law. This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of Delaware. Disputes concerning this Agreement and the transactions

contemplated hereby shall be decided in the Courts of the State of Delaware. The parties agree to submit to the exclusive jurisdiction of Delaware Courts.

d. Entire Understanding. This Agreement constitutes the entire understanding and agreement among the parties with respect to the subject matter hereof. This Agreement supersedes all prior negotiations, understandings, agreements, arrangements, and understandings, both oral and written, between the parties with respect to the subject matter hereof. This Agreement may not be modified or amended except in a writing signed by the parties hereto. In entering into this Agreement, no party is relying upon any representation, commitment, warranty, promise, or other statement by any other party unless expressly set forth in this Agreement.

e. Authority. Each signatory hereto represents and warrants that he or she is duly authorized to execute this Agreement on behalf of the entity he or she purports to bind. This Agreement has been duly executed and delivered by each of the parties and, upon execution by the other Parties, constitutes the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms.

f. Binding Impact. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, successors and assigns.

g. Time of the Essence. The Parties agree that the time of performance of any obligations under this Agreement is of the essence.

h. Effective Date. This Agreement is effective on the date first set forth above, which shall be the date of full execution and delivery to all Parties, which date shall be written in the first paragraph above.

i. Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute a single agreement.

In witness whereof, the Parties have placed their hands as of the date first above written.

PLAINTIFFS:

Las Americas Aspira Academy

La Academia Antonia Alonso

By: Margie Lopez White

By: _____

Name: Margie Lopez White
Its: Head of School
Jerry R. , CHAIR

Name: _____
Its: _____

Delaware Academy Of Public
Safety And Security

Eastside Charter School Of
Wilmington, Inc.

By: _____

By: _____

Name: _____
Its: _____

Name: _____
Its: _____

Family Foundations Academy, Inc.

First State Montessori Academy
Inc.

CSD

i. Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute a single agreement.

In witness whereof, the Parties have placed their hands as of the date first above written.

PLAINTIFFS:

Las Americas Aspira Academy

La Academia Antonia Alonso

By: _____

By: Brian Fahy

Name: _____

Name: Brian Fahy

Its: _____

Its: Board Treasurer

Delaware Academy Of Public
Safety And Security

Eastside Charter School Of
Wilmington, Inc.

By: _____

By: _____

Name: _____

Name: _____

Its: _____

Its: _____

Family Foundations Academy, Inc.

First State Montessori Academy
Inc.

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In witness whereof, the Parties have placed their hands as of the date first above written.

PLAINTIFFS:

Las Americas Aspira Academy

La Academia Antonia Alonso

By: _____

By: _____

Name: _____


Name: _____

Its: _____

Its: _____

Delaware Academy Of Public
Safety And Security

Eastside Charter School Of
Wilmington, Inc.

By:  _____

By: _____

Name: Herbert Sheldon

Name: _____

Its: Head of School

Its: _____

Family Foundations Academy, Inc.

First State Montessori Academy
Inc.

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In witness whereof, the Parties have placed their hands as of the date first above written.

PLAINTIFFS:

Las Americas Aspira Academy

La Academia Antonia Alonso

By: _____

By: _____

Name: _____

Name: _____

Its: _____

Its: _____

Delaware Academy Of Public
Safety And Security

Eastside Charter School Of
Wilmington, Inc.

By: _____

By: Charles S McDowell

Name: _____

Name: Charles S. McDowell

Its: _____

Its: Chairman of Board

Family Foundations Academy, Inc.

First State Montessori Academy
Inc.

Family Foundations Academy, Inc

By: Charles S McDowell

Name: Charles S. McDowell

Its: President of Board

By: _____

Name: _____

Its: _____

Freire Charter School Of
Wilmington

By: _____

Name: _____

Its: _____

Gateway Charter School, Inc.

By: _____

Name: _____

Its: _____

Great Oaks Wilmington Charter
School

By: _____

Name: _____

Its: _____

Kuumba Academy Charter School,
Inc.

By: _____

Name: _____

Its: _____

MOT Charter School, Inc.

By: _____

Name: _____

Its: _____

Newark Charter School, Inc.

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

By: Courtney Jp

Name: Courtney Fox

Its: Head of School

Freire Charter School Of
Wilmington

Gateway Charter School, Inc.

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

Great Oaks Wilmington Charter
School

Kuumba Academy Charter School,
Inc.

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

MOT Charter School, Inc.

Newark Charter School, Inc.

By: _____

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Its: _____

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By: _____

Name: _____

Its: _____

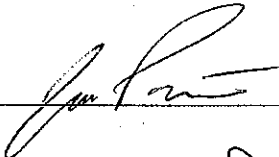
By: _____

Name: _____

Its: _____

Freire Charter School Of
Wilmington

Gateway Charter School, Inc.

By:  _____

Name: John Pierson

Its: Board President

By: _____

Name: _____

Its: _____

Great Oaks Wilmington Charter
School

Kuumba Academy Charter School,
Inc.

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

MOT Charter School, Inc.

Newark Charter School, Inc.

By: _____

Name: _____

Its: _____

By: _____

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By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

Freire Charter School Of
Wilmington


Gateway Charter School, Inc.

By: _____

Name: _____

Its: _____

By: _____

Name:  Timothy Griffith

Its:  Executive Director

Great Oaks Wilmington Charter
School

Kuumba Academy Charter School,
Inc.

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

MOT Charter School, Inc.

Newark Charter School, Inc.

By: _____

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By: _____

Name: _____

Its: _____

Freire Charter School Of
Wilmington

Gateway Charter School, Inc.

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

Great Oaks Wilmington Charter
School

Kuumba Academy Charter School,
Inc.

By: Jordan C. Jones

Name: Jordan C. Jones

Its: Interim Principal

By: _____

Name: _____

Its: _____

MOT Charter School, Inc.

Newark Charter School, Inc.

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

By: _____

By: _____

Name: _____

Name: _____

Its: _____

Its: _____

Freire Charter School Of
Wilmington

Gateway Charter School, Inc.

By: _____

By: _____

Name: _____

Name: _____

Its: _____

Its: _____

Great Oaks Wilmington Charter
School

Kuumba Academy Charter School,
Inc.

By: _____

By: Sally Maldonado

Name: _____

Name: Sally Maldonado

Its: _____

Its: Head of School

MOT Charter School, Inc.

Newark Charter School, Inc.

By: _____

By: _____

Name: _____

Name: _____

Its: _____

Its: _____

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

Freire Charter School Of
Wilmington

Gateway Charter School, Inc.

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

Great Oaks Wilmington Charter
School

Kuumba Academy Charter School,
Inc.

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

MOT Charter School, Inc.

Newark Charter School, Inc.

By: Edward B. Sathwode, IV

Name: EDWARD B. SATHWODE, IV

Its: HEAD OF SCHOOL

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

Freire Charter School Of
Wilmington

Gateway Charter School, Inc.

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

Great Oaks Wilmington Charter
School

Kuumba Academy Charter School,
Inc.

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

MOT Charter School, Inc.

Newark Charter School, Inc.

By: _____

Name: _____

Its: _____


By: Gregory Meece

Name: Gregory Meece

Its: School Director

Odyssey Charter School, Inc.

Providence Creek Academy, Inc.

By: 

By: _____

Name: DIMITRI DANDOLOS
Its: Board President

Name: _____
Its: _____

Thomas Edison Charter School Of
Wilmington

By: _____

Name: _____
Its: _____

Clissita Patrick for her minor
children K.B.P., N.P.,
J.P.H., K.P.H. and D.S.

Ricardo Carrasquillo for his minor
child S.C.

Odyssey Charter School, Inc.

Providence Creek Academy, Inc.

By: _____

By:  _____

Name: _____

Name: CHARLES TAYLOR

Its: _____

Its: ITRAC OF SUTHER

Thomas Edison Charter School Of
Wilmington

By: _____

Name: _____

Its: _____

Clissita Patrick for her minor
children K.B.P., N.P.,
J.P.H., K.P.H. and D.S.

Ricardo Carrasquillo for his minor
child S.C.

Odyssey Charter School, Inc.

Providence Creek Academy, Inc.

By: _____

By: _____

Name: _____

Name: _____

Its: _____

Its: _____

Thomas Edison Charter School Of
Wilmington

By:  _____

Name: Salome Thomas-El

Its: Head of School

Clissita Patrick for her minor
children K.B.P., N.P.,
J.P.H., K.P.H. and D.S.

Ricardo Carrasquillo for his minor
child S.C.

Odyssey Charter School, Inc.

Providence Creek Academy, Inc.

By: _____

By: _____

Name: _____

Name: _____

Its: _____

Its: _____

Thomas Edison Charter School Of
Wilmington

By: _____

Name: _____

Its: _____

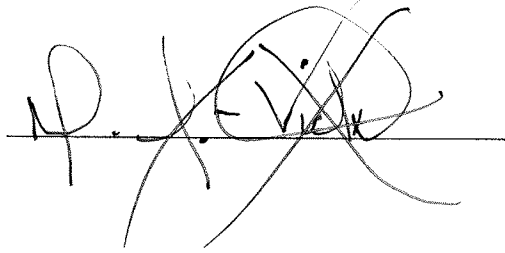
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Clissita Patrick

Ricardo Carrasquillo for his minor
child S.C.

Ricardo Carrasquillo

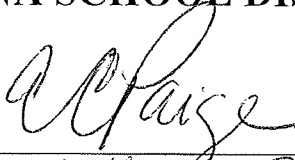
Dalynne Vick for her minor
children, E.V. and I.V.



A handwritten signature, appearing to be 'D. Vick', written over a horizontal line.

Alexis Simms for her minor
children, M.H., L.S. and K.S.

CHRISTINA SCHOOL DISTRICT:

By: 
Name: Elizabeth C. Paige
Its: CSD Board President

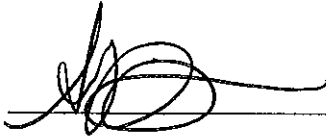
MR. ROBERT SILBER:



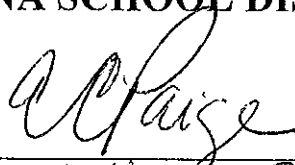
A handwritten signature, appearing to be 'Robert Silber', written over a horizontal line.

Dalynne Vick for her minor
children, E.V. and I.V.

Alexis Simms for her minor
children, M.H., L.S. and K.S.



CHRISTINA SCHOOL DISTRICT:

By: 
Name: Elizabeth C. Paige
Its: CSD Board President

MR. ROBERT SILBER: