

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (“Agreement”) is made and entered into by and between the State of Missouri, at the relation of Attorney General Eric S. Schmitt (the “State”), and Moberly School District No. 81 (the “District”) (each a “Party” and collectively the “Parties”).

WHEREAS, the Attorney General has the authority to enforce the Missouri Sunshine Law, codified in Chapter 610, RSMo, on behalf of the State; and

WHEREAS, on September 27, 2021, an employee of the Attorney General’s Office submitted a request for public records to the District seeking documents and communications relating to the District’s policies and practices related to making audio recordings of individualized education plan (“IEP”) and Section 504 meetings; and

WHEREAS, on September 30, 2021, the District responded to the Attorney General’s Office and provided estimated fees to fulfill the records request; and

WHEREAS, on November 23, 2021, the State filed a Petition (“Petition”) against the District in the Circuit Court of Randolph County, Missouri, Case No. 21RA-CV01183 (“Lawsuit”); and

WHEREAS, the Petition alleged that the District violated § 610.026 of the Sunshine Law by demanding fees for staff to review and redact records and to make copies of electronic records; violated § 610.026.1(1) of the Sunshine Law by failing to research records using employees that result in the lowest amount of charges for research time; violating § 610.029.1 of the Sunshine Law for entering into a contract with a technology provider that impairs access to public records; and violated § 610.026 of the Sunshine Law by demanding advance payment of fees; the District makes no admissions of any alleged violations by entering into this Agreement; and

WHEREAS, the State and District desire to settle the matters raised or could be raised in the Lawsuit in accordance with the terms and conditions contained herein;

NOW, THEREFORE, in consideration for the mutual promises, covenants, and conditions contained herein, the sufficiency and adequacy of which are acknowledged by the Parties, the State and the District agree as follows:

1. **New Recording Policy and Procedures.** No later than 90 days from the final execution of this Agreement, the District shall adopt a revised “Audio and Visual Recording” policy and “Guidelines for Recording IEP/504 Meetings” policy concerning the recording of IEP and Section 504 meetings. The revisions shall remain in place unless and until there is a change in Missouri or federal law such that the revised policies would conflict with those laws.

- a. The revised Audio and Visual Recording policy shall include the following language among its provisions:

i. "The District's policies on the allowance or prohibition on recording of meetings follows Board Policy and Missouri or federal law. In meetings in which recordings are permitted by Board Policy, Missouri or federal law, or permission by district administration, which includes Individual Education Plan or Section 504 meetings, parents/guardians may make audio recordings of such meetings and are requested to submit an intent to record notice pursuant to Board Policy; the District will not prohibit the audio recording of any such meeting if such an advance request is not submitted, if applicable law or policy does not specifically require the parent/guardian to submit one."

b. The revised meeting recording form, "Guidelines for Recording IEP/504 Meetings" which is attached as Exhibit A is currently in use and shall remain in use by the District unless or until a change in the law dictates otherwise.

2. Mandatory Training. No later than 30 days from the final execution of this Agreement, the District shall contact the Attorney General's Office at Casey.Lawrence@ago.mo.gov to schedule a Sunshine Law educational training. The training shall be attended by each member of the Moberly School Board, the District's and/or the Board's custodian of records, the District Superintendent, and the District's Assistant Superintendents. The training must be completed within 90 days of final execution of this Agreement.

3. Public Records Practices and Monitoring. The District agrees to implement the following processes concerning public records:

a. No later than 90 days following the execution of this Agreement, the District shall implement a system for monitoring and tracking public records requests that are submitted to the District (the "System"). The System may take the form of a spreadsheet, log, database, or other similar format. At minimum, the System shall contain the following information: 1) name of the requesting party; 2) date the records request was received by the custodian of records; 3) date the District's initial response letter is sent to the requesting party; 4) District's estimated date when records will be provided; 5) District's estimated cost to fulfill the request; 6) total number of hours the District estimates it must spend to fulfill the request; and 7) date the request was ultimately fulfilled. The District may add additional information if it believes additional information will better assist it in monitoring its public records request fulfillment process. The District shall keep this System current and updated as it receives requests for public records. For a period of one year from the execution of this Agreement, the District shall provide a copy of this System to the Attorney General's Office only upon request by the Attorney General's Office and at no cost to the Attorney General's Office.

b. For a period of one year following the execution of this Agreement, the District agrees to provide the Attorney General's Office copies of any written or email

communications between the District (and/or its employees) and the Missouri School Boards Association (and/or its employees) pertaining to MSBA policies or activities that MSBA may undertake on behalf of the District. The District shall provide a copy of these communications to the Attorney General's Office only upon request by the Attorney General's Office and at no cost to the Attorney General's Office.

4. Technology Service Provider Practices. The District agrees that it will not enter into or renew a contract for the creation or maintenance of a public records database if that contract impairs the ability of the public to inspect or copy the public records of that agency, including public records that are online or stored in an electronic record-keeping system used by the agency. If the District enters into or renews any contract with a technology services provider that requires the provider to assist with searching for public records in response to a public records request, the contract shall not allow any impediment that as a practical matter makes it more difficult for the public to inspect or copy the records than to inspect or copy the public governmental body's records. The District further agrees that if a technology services provider does assist in searching for public records in response to a public records request, the District will charge the requesting party no more than the average hourly rate of a District employee who would otherwise be tasked with the search, and not at any higher rate that the provider itself might charge the District for utilizing the provider's services for searching for records.

5. Resolution of Claims and Voluntary Dismissal. This Agreement resolves all claims the State, acting through the Attorney General, has or may have had against the District under Chapter 610, RSMo, for acts occurring prior to the date of this Agreement subject to Chapter 610, RSMo. Within fourteen (14) days of this Agreement, the State shall seek voluntary dismissal with prejudice of the Lawsuit.

6. No Limit on Certain Rights of the Parties. Except as specified in paragraph 5 and this Paragraph 6, this Agreement shall not be construed to limit the rights of the State to obtain penalties or declaratory or injunctive relief under Missouri law. The Parties agree that (a) nothing in this Agreement shall prevent either Party from applying to a court for further orders or relief if violations of this Agreement occur, (b) nothing in this Agreement shall preclude the State from seeking declaratory, equitable, or legal relief for violations of Missouri laws or regulations that were not alleged in the Petition, and (c) nothing in this Agreement shall preclude the State from seeking declaratory, equitable, or legal relief for future violations of Missouri law or regulations, including similar claims asserted in the Lawsuit but based on facts that occur after the execution of this Agreement.

7. Attorneys' Fees, Costs, and Expenses. Each Party shall bear their own attorneys' fees, costs, and expenses.

8. Court Costs. The Parties shall bear their own court costs.

9. Effective Date. This Agreement is effective on the date signed by the last Party.

10. Scope of Agreement. This Agreement embodies the entire agreement and understanding of the Parties with respect to the subject matter contained herein. The Parties hereby declare and represent that no promise, inducement, or agreement not herein expressed has been made, and the Parties acknowledge that the terms and conditions of this Agreement are contractual and not a mere recital.

11. Modification. This Agreement may not be modified except by a writing executed by the Parties. The Parties agree to negotiate in good faith any modifications to this Agreement in response to any future relevant action by the Missouri General Assembly or a court.

12. Authority. The persons signing this Agreement represent that they have the authority to enter into this Agreement on behalf of the respective Parties and offices that they represent.

13. Preparation of Documents. This Agreement is the joint work product of the Parties and, in the event of any ambiguity herein, no inference shall be drawn against a Party by reason of document preparation.

14. Forum Selection. The Parties agree that any action to enforce this Agreement must be pursued in the Circuit Court of Randolph County, Missouri.

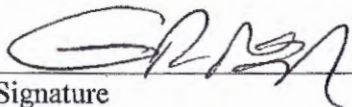
15. Execution in Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original instrument and all of which together shall constitute one and the same Agreement.

16. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

[REMAINDER OF PAGE LEFT BLANK]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in their respective capacities as described below.

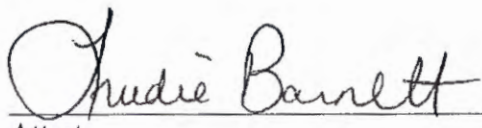
MOBERLY PUBLIC SCHOOL DISTRICT:


Signature

Arthur R. "Bobby" Raley Jr.
Printed Name

President, Board of Education

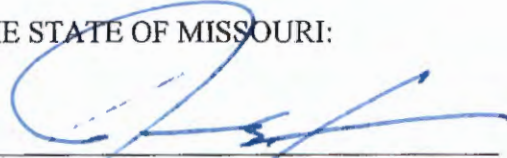
3-31-2022
Date


Attest

Secretary, Board of Education
TRUDIE BARNETT

3-31-2022
Date

THE STATE OF MISSOURI:


Signature

JAMES S. ATKINS
Printed Name

GENERAL COUNSEL
Title

APRIL 01, 2022
Date