

**SETTLEMENT AGREEMENT BETWEEN
ELK GROVE UNIFIED SCHOOL DISTRICT
AND
CALSTRS RETIREE _____**

This Settlement Agreement and Release (“Agreement”) is made and entered into by and between Elk Grove Unified School District (“District”) and former District employee and current CalSTRS retiree, _____ (“Retiree”). The District and Retiree are collectively referred to as the “Parties.” This Agreement is dated _____, for reference purposes.

RECITALS

- A. Retiree was formerly employed by the District as a permanent certificated employee.
- B. On February 7, 2019, CalSTRS issued a final audit report (“Audit Report”). Based upon the findings of the Audit Report, CalSTRS determined that 1) non-member earnings were not properly reported during the 2016-2017 school year; 2) extra-duty earnings were not properly reported for those members in specified positions during the 2015-2016 and 2016-2017 school years; 3) the annual pay rate of a specific employee was not properly reported during the 2016-2017 school year; 4) creditable compensation was not properly reported for those members in a specified position during the 2016-2017 school year; 5) a member’s unused sick days were over-reported during the 2016-2017 school year; and 6) post-retirement earnings for retired members were not properly reported during the 2015-2016 and 2016-2017 school years.
- C. As a result of the Audit Report, CalSTRS has determined that Retiree’s compensation was overstated and Retiree’s benefits were overpaid. CalSTRS has informed Retiree that Retiree will be required to repay the amount received in excess of what Retiree should have received (“Retroactive Obligation”). In addition, Retiree will also have Retiree’s future retirement allowance lowered (“Prospective Reduction”).
- D. Based on the findings of the Audit Report, the Parties have worked together and desire to resolve the matter amicably and as such the District agrees to assist the Retiree with the costs of the Retiree’s Retroactive Obligation to settle the dispute that has arisen between Retiree and the District. The Parties desire to avoid the time and expense attendant upon potential administrative and civil litigation and to settle, once and forever, all disputes arising out of, related to, or in any manner connected with the Audit Report, the Retroactive Obligation, the Prospective Reduction, and Retiree’s retirement benefits (collectively the “Dispute”).

AGREEMENT

The Parties agree as follows:

- 1. **Recitals.** The recitals set forth above are true.

2. **Payment to Retiree for the Retroactive Obligation.** District agrees to pay Retiree's Retroactive Obligation, as calculated by CalSTRS, in the amount of \$_____. The District shall pay this amount directly to Retiree within thirty (30) days after approval of this Agreement by the District's Governing Board and satisfaction of all conditions stated herein, including the participation requirements set forth in paragraph 4 below.
3. **Address Verification.** District will send the payment specified in paragraph 2 above by certified mail, return receipt requested, to Retiree's last known address on file with the District. It shall be Retiree's sole obligation to ensure that the last known address on file with the District remains current and valid. Payments not cashed by Retiree within six (6) months of issuance shall be forfeited and District shall have no obligation to repay that payment.
4. **Release of Claims.** Retiree accepts the payment set forth in paragraph 2 in full settlement and compromise of the Dispute and agrees that the same shall fully and forever discharge and release all claims and causes of action, whether now known or now unknown, which Retiree has, or might have or could have asserted, against the District, its officials, employees, representatives or agents, arising out of the incidents which are the subject to the Audit Report and any and all effects it had or may have on Retiree's retirement benefits, including restitution, damages, attorneys' fees and costs.
5. **Civil Code section 1542.** This Agreement includes an express waiver by Retiree of Civil Code section 1542, which states:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Therefore, the Retiree expressly acknowledges that this release is intended to include in its effect, without limitation, all claims and causes of action that he/she does not know or suspect to exist in their favor and that this release contemplates the extinguishment of all such claims and causes of action.

6. **Tax/Retirement Issues.** Retiree understands and agrees that Retiree shall take full and complete responsibility for all tax and retirement liabilities that may result from receipt of the payment set forth above and that District has not made any tax or retirement warranties or representations with respect to any payment made under this Agreement. Retiree agrees to indemnify, defend and hold District harmless from all tax liability and retirement consequences of any nature resulting from this Agreement.
7. **No Admission of Liability.** It is understood and agreed that this Agreement is a compromise of disputed claims and that nothing in this Agreement shall be

construed as an admission by any party.

8. **Non-Precedential.** The Parties agree that this Agreement shall not create a past practice or be deemed precedential in any manner whatsoever, or be used by any other employee or retiree as evidence of any entitlement to similar benefits.
9. **Governing Laws/Venue.** This Agreement is executed in Sacramento County, California, and shall be governed by the laws of the State of California.
10. **Attorney Fees and Costs.** Each of the Parties to this Agreement shall bear their own costs, expenses and attorneys' fees.
11. **Entire Agreement.** This Agreement constitutes the entire agreement and understanding between the Parties. There are no oral understandings, terms, or conditions, and no party has relied upon any representation, express or implied, not contained in this Agreement. All prior understandings, terms, or conditions are deemed merged into this Agreement.
12. **Severability.** If any provision of this Agreement is held to be void, voidable, or unenforceable, the remaining portions of the Agreement shall remain in full force and effect.
13. **Execution.** This Agreement may be executed as one or more counterparts, and each such counterpart shall be deemed an original, but all of which together shall constitute one and the same instrument. A photocopy or facsimile transmission of the Agreement, including signatures, shall be deemed to constitute evidence of the Agreement having been executed.
14. **Independent Review.** Retiree represents that Retiree has read this Agreement in full and understands and voluntarily agrees to all such provisions. Prior to signing this Agreement, Retiree availed himself/herself of relevant data and counsel, through sources of Retiree's own selection, in deciding whether to execute this Agreement.
15. **Warranty of Authority.** Each of the persons signing this Agreement represents and warrants that such person has been duly authorized to sign this Agreement on behalf of the party indicated, and each of the Parties, by signing this Agreement, warrants and represents that such party is legally authorized and entitled to enter into this Agreement.
16. **Binding Effect.** This Agreement is for the benefit of and shall be binding on all Parties and their successors, assigns, heirs, executors, administrators, predecessors, partnerships, employees, attorneys, insurers sureties, agents, representatives, directors, officers, receivers, trustees and/or stockholders.
17. **Board Approval.** This Agreement is contingent upon approval by District's Governing Board.

**ELK GROVE UNIFIED
SCHOOL DISTRICT**

RETIREE

By: _____
[Name]
[Position]

[NAME]
RETIREE

Date: _____

Date: _____

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