

File No. 12414-0628
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

H.W., a minor by and through her
Mother, C.W., individually and on
behalf of her daughter,

Plaintiffs,

v.

Sterling High School District, Jack
McCulley, Sterling High School
Superintendent, in his individual and
capacities; Mark Napoleon, Principal,
Sterling high School, in his individual
and official capacities,

Defendants.

HONORABLE NOEL L. HILLMAN

DOCKET: 1:14-CV-01646-NLH-JS

CIVIL ACTION

STIPULATION OF SETTLEMENT

WHEREAS, H.W. is a student residing within the territorial boundaries of the Sterling High School District (hereinafter "the Board" or "the District"); and

WHEREAS, a dispute exists with regard as a result of which Plaintiffs filed a Complaint against the District, on behalf of H.W., captioned *H.W. o/b/o M.W. v. Sterling High School*, Docket Number 1:14-CV-01646-NLH-JS (hereinafter "the Complaint"); and

NOW, THEREFORE, the Parties desire to settle the Complaint in an amicable way, they hereby agree as follows:

1. Any and all current disciplinary restrictions against H.W.'s participation in any school related event are hereby rescinded, subject only to other provisions of this Agreement.

2. All documents, notes, e-mails or other recordings with respect to any such restrictions or consequences shall be purged from school or other records and either provided to C.W. or destroyed within ten days of the date this Agreement is signed. All records of restrictions or consequences on or to H.W. with respect to statements she made on social media shall be expunged from school records and all copies of any related notes or documents shall be destroyed. All records or related documents concerning any statements made by H.W. while not in school shall similarly be expunged and destroyed.

3. Any and all restrictions relating to drug testing are hereby rescinded. All documents, notes, e-mails or other recordings with respect to any such restrictions shall be purged from school or other records and either provided to C.W. or destroyed within ten days of the date this Agreement is signed.

4. The District shall modify its school policy and student handbook within 120 days of the execution of this Agreement as follows: The administration may be monitoring student discussions on Facebook, Twitter or other social media outlets and may seek to impose penalties in accordance with the student code of conduct if such discussions cause a substantial disruption at the school.

5. H.W. will meet, on a date and time mutually agreeable to the Parties, with the Student Assistant Counselor within fifteen (15) days of the date of this Agreement is signed. At H.W.'s discretion, C.W. may accompany H.W. for this meeting. This shall be a one time meeting and all communications made at this meeting shall be held by the Counselor on the strictest of confidence and shall not in any circumstance be revealed to any District employee,

administrator or board member. Any notes, documents, records or recordings relating to this meeting shall not be maintained in any files associated with the District, any of its employees, administrators or board members. The sole exception being that the District may maintain a record that H.W. attended the meeting.

6. Upon completion of two assignments in her English IV class, attached hereto as Exhibit A, H.W. will be eligible for graduation. At H.W.'s discretion, the District shall provide tutoring in the home at a rate of 5 hours per week until such assignments are completed. Such tutoring shall begin within 10 calendar days of H.W.'s request. It is understood that a reasonably good faith completion of the assignments is sufficient to meet the requirements of this paragraph, and the District will confirm satisfactory completion within five days of H.W.'s submission of the assignments to Sarah Bolam.

7. It is understood by all parties that if H.W. is involved in a significant disruption during, the Senior Class Trip, prom or graduation practice she may be asked to leave, and if she refuses to leave and the Police Department makes her leave, she will forfeit any continuing right to prom or graduation. District personnel and or any others supervising such events are subject to the provisions of paragraph 18, specifically that they shall be informed that H.W. is permitted to attend all school related events and is to be treated no differently than any other student. H.W. is not to be confronted or questioned by school personnel concerning this lawsuit, the subject matter of this lawsuit, or H.W.'s right to attend school events. Staff will be supportive of H.W. to facilitate successful attendance.

8. H.W. may attend the Senior Class Trip under the following conditions. It is understood by both parties that although H.W. shall be entitled to participate in all activities and events, H.W. is attending in her own capacity and shall not be permitted to enter the hotel rooms

of other students, nor ride the busses provided by the District and will not be under the supervision of the District. H.W. will not otherwise be restricted in her interactions with other students on their Senior Class Trip, including but not limited to at meals, entertainment events or at any other theme park events of the Senior Class Trip. H.W. must arrange for her own transportation and lodging; and all disciplinary or other responsibility for H.W. will be the sole responsibility of H.W.'s parents or their designees.

9. The District further agrees to make payment in the amount of \$9,000 to the "Trust Account of Jerry Tanenbaum, Esquire" in exchange for all attorney fees and costs associated with this matter.

10. The District shall refund any and all monies paid by H.W. or her parents with respect to the Senior Class Trip, including the \$300.00 initial payment.

11. The District and Plaintiffs each hereby verify, affirm, and represent that they have had the opportunity to discuss the terms of this Agreement with counsel and that they are fully satisfied with the representation provided by their counsel.

12. In exchange for the consideration set forth herein, Plaintiffs dismiss, release, and discharge the District from any and all claims asserted, and which could have been asserted, whether known or unknown, in the Complaint, arising out of acts or omissions occurring through the date of this Agreement, including, but not limited to, claims arising under the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, Section 1983 of the Civil Rights Act, Title IX, the New Jersey Law Against Discrimination, an alleged denial of a free and appropriate public education, special education services, homebound instruction, independent evaluation, out of district placement, discrimination, inappropriate discipline, reimbursement for educational costs, reimbursement for medical/counseling services, compensatory education, and damages or

injuries to H.W. or C.W. Petitioners further dismiss, release, and discharge any and all claims for attorney's fees and expert costs, and any other fees and costs incurred through the date of this Agreement. As used in this Agreement, the term "District" means: the Sterling High School District, its current or former elected or appointed officials, administrators, employees, attorneys, agents, servants, representatives, predecessors and successors, insurance carriers, and all other persons or entities for whom any of the above have been or may be legally responsible.

13. Plaintiffs represent that they have sole authority, as H.W.'s parents, to enter into this Agreement.

14. The Parties acknowledge that they have read and understand the terms of this Agreement and that they are entering into this Agreement knowingly, freely, voluntarily, without coercion and not under the influence of anything or anyone.

15. Other than what is covered herein, the Parties mutually waive any claims for attorney's fees with the understanding that each Party shall be responsible for their own fees and costs, including physicians', experts', and attorneys' fees and costs, incurred in connection with this dispute, to the extent applicable. No party shall be deemed a "prevailing party."

16. The Parties agree that except as otherwise stated herein, they will not communicate the terms of this Agreement to any persons or entities other than their attorneys, accountants, tax advisors, agents and/or any other individuals necessary to effectuate this settlement, and, but only with the written agreement of the other Party, others whom a Party may desire to advise. The Parties may, however, produce or disclose this Agreement as required by operation of law or lawful subpoena or order of court or pursuant to official discovery proceedings. If a Party is required to produce or disclose this Agreement, it will first advise the other Party as soon as practicable. Neither Party may seek any press coverage regarding this

matter and the disclosure of any information contained within this agreement shall be a material breach of the agreement. The parties may disclose to others or to unsolicited inquiries from the press that the matter has been settled and that they are subject to a confidentiality clause. Defendants shall not state, infer or imply that H.W. is subject to any penalty or punishment relating to her statements or actions in any way related to the subject matter of the lawsuit. If Plaintiffs seek press coverage or disclose any of the information contained within this agreement except as otherwise stated herein, the District may seek to rescind H.W.'s right to walk in graduation and attend prom. Plaintiffs also have the right to seek redress shall the District violate this clause. The parties further agree that the matter can be heard in any court of competent jurisdiction on an expedited basis and that a party who prevails in obtaining relief may recover attorney's fees if they are successful in any such action. It is also understood that this clause does not limit Plaintiffs in making arrangements with friends or dates to attend school events, nor in inviting others to attend such events, including but not limited to graduation ceremonies. In each such instance Plaintiffs may disclose that H.W. is free to attend such school events. Notwithstanding anything in this paragraph, the District shall notify all school staff that H.W. is permitted to attend all school related events and is to be treated no differently than any other student. H.W. is not to be confronted or questioned by school personnel concerning this lawsuit, the subject matter of this lawsuit, or H.W.'s right to attend school events. Staff will be supportive of H.W. to facilitate successful attendance.

17. The Parties agree to submit this Agreement under seal to be incorporated into an enforceable Order of the District Court of New Jersey. The District consents to an expedited hearing in the District Court of New Jersey to enforce this Agreement in the event H.W. is not permitted full and complete participation in any school activity in accordance with this

Agreement, and that Plaintiffs may recover attorney's fees if they are successful in any such action.

18. This Agreement shall be interpreted, enforced, and governed under the laws of the State of New Jersey. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any Party. The Parties agree and acknowledge that this Agreement is the product of mutual draftsmanship and any rule of law requiring that it be construed against the drafter shall not apply.

19. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof, and supersedes all prior written or oral and all contemporaneous oral agreements, understandings and negotiations. This Agreement may only be amended in writing by way of a document signed by all Parties.

20. This Agreement is subject to formal approval by the Board, following full execution and approval by Petitioners, and such Board Approval shall be sought at the April 17, 2014 Board meeting. It is also understood that H.W. shall be entitled to attend school events in accordance with this Agreement between the Plaintiffs' execution of this Agreement and Board approval. If Board approval is not obtained, the hearing on April 25, 2014 shall go forward as currently scheduled, with the District's opposition brief due to on Sunday April 20, 2014 (served on Plaintiff's counsel via e-mail) and Plaintiff's Reply due by April 23, 2014.

21. This Agreement may be executed in multiple counterparts, and it shall be fully valid, legally binding, and enforceable whether executed in a single document or in such counterparts.

IN WITNESS HEREOF, the parties have set their hands this 17th day of April

2014.

Sterling High School

Louise Barikian
Louise Barikian, Board President

Date: 4/17/14.

Plaintiffs

[REDACTED]
H.W., Plaintiff

Date: 4/8/14

[REDACTED]
C.W, Plaintiff

Date: 4/8/14