

# Special Meeting

Monday, February 13, 2023 6:00 PM

Oak Park Building, 6355 Osman Avenue North, Stillwater, MN 55082

I. Call to Order	<b>Speaker (s)</b> : Ms. Alison Sherman, School Board Chair
II. Roll Call	<b>Speaker (s)</b> : Ms. Alison Sherman, School Board Chair
III. Approval of Agenda	<b>Speaker (s)</b> : Ms. Alison Sherman, School Board Chair
IV. Closed Session	<b>Speaker (s)</b> : Ms. Alison Sherman, School Board Chair
V. Action Item	
V.A. Possible actions based on the topics discussed in the closed session	<b>Speaker (s)</b> : Trevor S Helmers, Rupp, Anderson, Squires & Waldspurger, P.A.
VI. Adjournment	<b>Speaker (s)</b> : Ms. Alison Sherman, School Board Chair

**MEDIATED SETTLEMENT AGREEMENT  
AND RELEASE OF ALL CLAIMS**

This Settlement Agreement and Release of All Claims (“Agreement”) is entered into by and between Kristen Hoheisel (“Hoheisel”), Independent School District No. 834, Stillwater Area Public Schools (“District”), and Sarah Stivland (“Stivland”). Hoheisel, the District, and Stivland shall be referred to individually as a “Party” and collectively as the “Parties.”

**RECITALS**

**WHEREAS**, Hoheisel is a former employee of the District who commenced a lawsuit against the District and Stivland in the Washington County District Court, captioned *Kristen Hoheisel v. Independent School District 834 & Sarah Stivland*, Court File No. 82-CV-20-1882 (“Lawsuit”);

**WHEREAS**, the Parties participated in a mediation on October 12, 2022; and

**WHEREAS**, the Parties mutually desire to avoid the expense and uncertainty of litigation and to resolve their dispute on the terms set forth below.

**TERMS**

**NOW, THEREFORE, IN CONSIDERATION OF** the foregoing and the mutual promises contained in this Agreement, including the relinquishment of certain legal rights and other valuable consideration, the sufficiency of which is acknowledged, the Parties now agree as follows:

1. **Mediation Agreement.** The Parties entered into a Mediation Agreement on October 12, 2022. The Mediation Agreement is incorporated herein and attached as **Exhibit A**.
2. **Mediated Agreement.** This is a binding settlement pursuant to Minnesota Statutes section 572.35. This statute is incorporated into this Agreement by reference. The Parties agree that the mediator has no duty to protect their interests or to provide the Parties with advice about their legal rights. The Parties also understand and agree that signing a mediated settlement agreement may adversely affect their legal rights. The Parties have consulted with their attorneys before signing this Agreement. The Parties understand and acknowledge that this Agreement is a binding and conclusive resolution of the Lawsuit pursuant to the terms of this Agreement.
3. **Payment.** On or before March 15, 2023, or within thirty (30) calendar days after the Lawsuit is dismissed with prejudice as provided for in Paragraph 4 below and upon the expiration of the revocation period in Paragraph 16, whichever is later, the District or its insurer will issue three checks:
  - a. One check in the amount of \$142,100.00 payable to Kristen Hoheisel for the reimbursement of attorneys’ fees and expenses incurred in prosecuting this lawsuit;

- b. One check in the amount of \$299,610.00 payable to Kristen Hoheisel as non-wage loss damages.
- c. One check in the gross amount of \$33,290.00 to Kristen Hoheisel as compensation for lost wages.

The checks shall be sent to Attorney Fiebiger's office at the following address: Fiebiger Law LLC, 6800 France Ave. S., Ste. 190, Edina, MN 55435.

The payments identified in this paragraph constitute full and complete consideration for this Agreement, the receipt and sufficiency of which is hereby acknowledged, including the release of all claims set forth in this Agreement. Fiebiger Law must provide Ms. Hoheisel's completed W-9 forms to the District's legal counsel as a prerequisite to receiving payment.

4. **No Further Claim to Compensation.** This Agreement satisfies all obligations between the Parties that arise out of this matter, and Hoheisel shall have no claim whatsoever to any compensation, benefits, or payments of any nature from the District except as expressly stated in this Agreement.

5. **Dismissal.** In exchange for the payments set forth in number 3 above, Hoheisel agrees to fully dismiss the above-referenced Lawsuit with prejudice. By signing this Agreement, the Parties authorize their attorneys to stipulate to an order of dismissal with prejudice authorizing the Court to dismiss the Lawsuit with prejudice, with no further action from the Parties, and with no award of any attorneys' fees, costs, or disbursements to either Party. The Parties will file the stipulation and order for dismissal with prejudice within five (5) business days of the signing of this Agreement.

6. **Release of All Claims.** In consideration of the payment and benefits outlined in this Agreement, and as an inducement for the District and Stivland to enter into this Agreement, Hoheisel hereby fully and completely releases, acquits, and forever discharges the District, its current and former School Board members, including Stivland, officers, employees, agents, representatives, insurers, attorneys, vendors, assigns, and other affiliates from any and all liability for any and all damages, actions, or claims—regardless of whether they are known or unknown, direct or indirect, asserted or not asserted—that arise out of or relate to any action, decision, event, fact, or circumstance occurring before Hoheisel signs this Agreement, including but not limited to her pending claims under the Open Meeting Law (Minn. Stat. Chap. 13D), the Minnesota Government Data Practices Act (Minn. Stat. Chap. 13), the Minnesota Whistleblower Act (Minn. Stat. § 181.932), and the Minnesota Human Rights Act (Minn. Stat. Chap. 363A). Hoheisel understands and agrees that by signing this Agreement she is waiving and releasing any and all claims, complaints, causes of action, and demands of any kind that she may have based on any federal or state law, including, but not limited to, the U.S. Constitution, the Minnesota Constitution, or any federal or state statute, regulation, rule, or common law. The Parties understand and expressly agree that this Agreement includes all unknown damages and consequences on account of or because of any claims asserted or that could have been asserted in

this Lawsuit, regardless of whether such damages or consequences occur in the future. This release of claims is to be broadly construed to cover and apply to any and all claims that may legally be released.

7. **Claims Not Waived.** By signing this Agreement, Hoheisel does not release or waive the following: (a) any rights or claims that are based on any events that occur after she signs this Agreement; (b) any right to institute legal action for the purpose of enforcing this Agreement; (c) any right to apply for unemployment compensation benefits, although the District may contest such application; (d) any claims arising under the Workers' Compensation Act, although the District or its insurer may contest such claims; or (e) any right to file a charge with a governmental agency, including the Equal Employment Opportunity Commission, although the District may contest such a charge and Hoheisel agrees that she will not be able to recover any award of compensation, damages, or any other monies if she files a charge or complaint or has a charge or complaint filed on her behalf with any federal, state, or local government agency.

8. **Responsibility for Costs and Attorney Fees.** The Parties are responsible for their own attorney's fees, costs, and expenses. No Party to the Lawsuit may be deemed to be a prevailing party for any purpose, and no Party may seek to recover any fees, costs, or expenses from another Party.

9. **No Admission of Wrongdoing.** This Agreement is made in compromise of disputed claims and is not to be construed as an admission of liability or wrongdoing by or on behalf of the District, any party identified in interest with the District, or Stivland. The District and Stivland specifically deny any wrongdoing or liability.

10. **Public Disclosure.** The Parties will endeavor to avoid publicizing this Agreement within the parameters of what is allowed under Minnesota law. Hoheisel understands and agrees that the District's disclosure of this Agreement and any other data related to Hoheisel's employment with the District will be subject to the requirements set forth in the Minnesota Government Data Practices Act ("MGDPA") and other Minnesota law governing the operations of school districts.

11. **Future Employment.** Hoheisel agrees that she is explicitly waiving any retaliation or discrimination claims against the District for its failure to consider or to hire her for any future position in the event she chooses to apply for a position with the District in the future.

12. **Letter of Recommendation.** The District agrees to prepare and provide Hoheisel with a letter of recommendation that Hoheisel may provide to prospective employers in the future. Said letter is attached to this Agreement as **Exhibit B**.

13. **Public Statement.** The District agrees to prepare and make a neutral public statement regarding the conclusion of Hoheisel's employment relationship with the District. Said public statement is attached to this Agreement as **Exhibit C**.

14. **Rescission Under MHRA.** Hoheisel recognizes that by signing this Agreement she is waiving and releasing any claims that she might have under the Minnesota Human Rights Act

("MHRA") against the District and Stivland. Under the MHRA (Minn. Stat. § 363A.31), Hoheisel's release of any MHRA claims will become final and irrevocable once this Agreement is fully executed. There is no applicable rescission period because Hoheisel served and filed the Lawsuit.

15. **Release of ADEA Claims.** Hoheisel recognizes that by signing this Agreement she is waiving and releasing any employment discrimination, retaliation, or other claims she might have under the Age Discrimination in Employment Act ("ADEA") against the District and Stivland. Hoheisel further acknowledges that she has been advised to consult with an attorney prior to signing this Agreement, and that she has been advised of her right to review and consider her release of any claims under the ADEA for a period of twenty-one (21) days. If she signs this Agreement before twenty-one (21) days have elapsed from the date on which she first received a copy of this Agreement to review, she will be voluntarily waiving her right to the full twenty-one (21) day review period.

16. **Revocation of ADEA Release of Claims.** Hoheisel acknowledges that after she signs this Agreement she will have seven (7) days during which she may revoke her waiver and release of claims arising under the ADEA. Hoheisel acknowledges that this right of revocation applies only to any claims she may have under the ADEA. Hoheisel further acknowledges that for her rescission to be effective, it must be delivered to the District's Superintendent, Dr. Michael Funk, at 1875 Greeley St. S., Stillwater, MN 55082, either personally by a third party courier or by United States Mail within the seven-day revocation period. If delivered by mail, the revocation must be postmarked within the seven-day period, properly addressed to Dr. Funk, and sent by certified mail, return receipt requested.

17. **Effect of Revocation.** If Hoheisel revokes any part of her release of all claims, the District and its insurer will not be required to make the payments outlined in Paragraph 3 and will instead pay the sum of one dollar (\$1.00). The remainder of this Agreement and the release of all claims set forth in this Agreement and all other provisions of this Agreement will remain in full force and effect.

18. **Not Rescindable.** Except as provided for above, this Agreement, including the release of claims, is effective upon execution and is not rescindable or otherwise revocable with respect to any claims.

19. **Voluntary Agreement.** The Parties acknowledge that no person has exerted undue pressure on them to sign this Agreement. The Parties are voluntarily choosing to enter into this Agreement because of the benefits this Agreement provides.

20. **Tax Consequences.** Hoheisel acknowledges and agrees that neither the District nor Stivland nor any of their insurers, attorneys, agents, employees, assigns or representatives have made any statements or representations regarding the tax consequences of the payment being made pursuant to this Agreement. It is specifically agreed and understood by Hoheisel that she is solely responsible for determining any tax consequences and for paying any taxes owed based on the payment made pursuant to this Agreement.

21. **Liens, Subrogation, and Indemnification.** Hoheisel understands and agrees that she is solely responsible for satisfying any conditional payments, liens, subrogation claims, demands for payment, and all other obligations to reimburse any governmental entity, governmental program, public or private insurer, or other source of payment or benefits furnished to her now or any time in the future including, but not limited to, any claims or demands for repayment or reimbursement of payments made for medical services or prescription medications. Hoheisel agrees to indemnify and hold the District and Stivland, their insurers, attorneys, and any other representatives of the District or Stivland harmless from any and all claims and losses, including costs and attorney's fees, and any other amount required for their defense, associated with any conditional payment, lien, subrogation claim, taxation claims or other claim or demand asserted by any governmental entity, governmental program, public or private insurer, or any other source of payment or benefits that have been furnished to Hoheisel.

22. **Medicare.** The District, Stivland, their insurer, and Hoheisel have sought to protect the interests of Medicare. It is not the intention of any Party to shift to Medicare responsibility for coverage or payment of medical services or expenses relating to any alleged damages. Based on a thorough review of relevant facts and circumstances, Hoheisel acknowledges that a determination was made, and that Hoheisel has so warranted and advised the District that:

a. With regard to any damages that Hoheisel has allegedly suffered, Hoheisel has not claimed or received, and will not claim in the future, health insurance coverage through Medicare in any form whether it be Medicare Part A - Hospital Insurance, Medicare Part B - Medical Insurance, Medicare Part C - Medicare Advantage Plan Coverage or Medicare Part D - Prescription Drug Coverage.

b. Hoheisel has not claimed or received, and will not claim in the future, Medicare benefits because of certain disabilities (as defined by Medicare) or End-Stage Renal Disease (permanent kidney failure requiring dialysis or a kidney transplant) for any treatments associated with any damages that Hoheisel has allegedly suffered because of the District.

c. In the unexpected event that Hoheisel incurs any expenses for medical care or treatment that is or may be related to any alleged damages caused by the District and Stivland, Hoheisel agrees that she will not file any claim with Medicare for such future medical care or treatment. Hoheisel agrees to be solely responsible for payment of any future medical expenses that are or may be related to any damages that Hoheisel allegedly suffered and not to shift the responsibility to Medicare.

d. Hoheisel agrees to indemnify and hold harmless the District, its insurer, attorneys, and other representatives for and from any and all claims, expenses, and attorney's fees relating thereto or relating to any expenses covered or paid by Medicare for treatment related to the injuries and/or damages which she claims to have been caused by the District. In the event of such demand, Hoheisel agrees to and will defend and hold harmless the District, its insurer, attorneys, and other representatives from any and all such liability,

including such an amount required for their defense, including their costs and attorney's fees. Hoheisel agrees that she has advised the District, its insurer, attorneys, and other representatives that she has no knowledge of any Medicare lien or debt that may arise or have arisen relative to the damages she claims to have been caused by the District.

23. **Choice of Law and Severability.** This Agreement is governed by the laws of the State of Minnesota. If any part of this Agreement is construed by a court of competent jurisdiction to be in violation of any law, the remaining portions will remain in full force and effect.

24. **Equal Drafting and Copies.** In the event that any Party asserts that a provision of this Agreement is ambiguous, this Agreement must be deemed to have been drafted equally by the Parties. A signed copy of this Agreement will have the same effect as an original.

25. **Complete Agreement.** This Agreement reflects the full and complete agreement between the Parties. The Parties have not relied on any promise, representation, statement, or inducement that is not expressly stated in this Agreement.

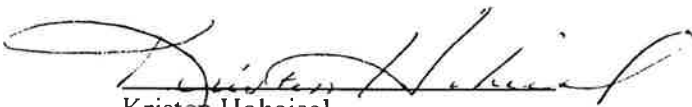
26. **Invalidity.** In case any one or more provisions of this Agreement shall be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Agreement will not in any way be affected or impaired thereby.

27. **Voluntary and Knowing Action.** Hoheisel acknowledges that she has had sufficient opportunity to review her lawsuit and claims and this settlement with her attorneys, that she has read and understands the terms of this Agreement, and that she has voluntarily and knowingly entered into this Agreement to resolve any and all charges, claims, demands or causes of action which she now has or may have with respect to the District and Stivland.

28. **Signatures.** This Agreement may be signed in counterparts, and a copy of this Agreement will have the same legal effect as the original.

**By signing below, each Party specifically acknowledges that it has reviewed the terms of this Agreement with legal counsel; that it fully understands the terms of this Agreement; and that it knowingly and voluntarily intends to be legally bound by the terms of this Agreement.**

**KRISTEN HOHEISEL**

  
Kristen Hoheisel

11/29/22  
Date

**INDEPENDENT SCHOOL DISTRICT NO. 834, STILLWATER**

*Asherman*  
School Board Chair

2/13/23  
Date

*Kate Hochstet*  
School Board Clerk

2/13/23  
Date

**SARAH STIVLAND**

*Sarah Stivland*  
Sarah Stivland

1.31.23  
Date

**EXHIBIT A**

**MEDIATED SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement”) is made by and between Kristen Hoheisel (“Plaintiff”) and Defendants Independent School District #834 and Sarah Stivland (collectively “Defendants”).

The terms of the settlement are as follows: Defendants are to pay Plaintiff the amount of \$475,000.00. Allocations between Plaintiff and her counsel are to be determined at the time of the formal settlement agreement.

The parties will negotiate a formal settlement agreement with release and applicable recession periods as provided by Minnesota statute.

This mediated settlement agreement is contingent on final school board approval to be held after the November 8, 2022 election.

The parties agree to keep all communications, negotiations and payment terms confidential until after final school board approval.

Plaintiff is responsible for payment of all taxes in the settlement amount.


The parties agree to postpone the summary judgment hearing pending final school board approval.

If the parties are unable to come to an agreement on the terms of the final settlement agreement and release the parties will consult with the mediator in an attempt to come to a resolution.

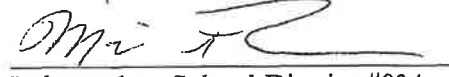
Dated: 10/13/22

  
Kristen Hoheisel

Dated: 10/12/22


  
Counsel for Plaintiff

Dated: 10/12/22

  
Independent School District #834  
Superintendent, Michael Funk

**EXHIBIT A**

Dated: 10/12/22

  
\_\_\_\_\_  
Counsel for Independent School  
District #834

Dated: 10/12/22

  
\_\_\_\_\_  
Sarah Stivland

Dated: 10/12/22

  
\_\_\_\_\_  
Counsel for Sarah Stivland

**EXHIBIT B**

[DISTRICT LETTERHEAD]

[DATE]

To whom it may concern:

I write to recommend Kristen Hoheisel for a director of finance and operations or similar position with your school district. I currently serve as the Superintendent of I.S.D. 834, Stillwater Area Public Schools, where Ms. Hoheisel was previously employed. While I did not have the pleasure of working with Ms. Hoheisel during her time with the District, I understand from several District employees, Board members, and community members that Ms. Hoheisel consistently demonstrated proficiency in performing her job duties and met the District's expectations.

Moreover, in my capacity as Superintendent, I am involved in professional organizations with other school district administrators in Minnesota, and I understand that Ms. Hoheisel is highly respected in the fields of school district administration and finance. She is recognized as a highly skilled and competent leader.

I encourage you to give serious consideration to Ms. Hoheisel as a candidate for employment.

Sincerely,

Dr. Michael Funk  
Superintendent

## EXHIBIT C

### Official Statement of the School Board

In September 2020, the District's then-elected School Board terminated Kristen Hoheisel's at-will employment with the District. Ms. Hoheisel's discharge occurred when the District and the School Board were in the midst of ongoing political turmoil. Ms. Hoheisel served at the pleasure of the School Board as an at-will employee, and her discharge was based on her relationship with the School Board Members at that time. The current School Board believes that Ms. Hoheisel was performing her job duties adequately in the midst of a difficult political environment for employees and does not support the employment actions taken by that Board.

While the District and Ms. Hoheisel will not be continuing their employment relationship, the current School Board supports Ms. Hoheisel and wishes her the best of luck as she begins the next chapter in her career.