

## **SETTLEMENT AGREEMENT**

This Settlement Agreement (the "Agreement") is being entered into voluntarily between the New Haven Board of Alders (the "BOA"), the New Haven Board of Education (the "BOE") and Daisy Gonzalez ("Ms. Gonzalez") (collectively referred to herein as the "Parties"), based upon the following circumstances:

**WHEREAS**, the City of New Haven Charter (the "Charter") underwent a series of revisions in 2013, with the revised Charter as approved by vote of the electors on November 5, 2013, becoming effective on January 1, 2014; and

**WHEREAS**, part of the revisions to the Charter addressed the composition of the BOE and, more particularly, Article VII Section 3 reduced the total membership of the BOE, effective January 1, 2016, from a total membership of eight voting (8) members, including the Mayor, to a total of seven (7) voting members, including the Mayor, [2 elected members and 4 appointed members] plus two (2) non-voting student members; and

**WHEREAS**, the BOE's current membership, due to lawful 4-year appointments and elections, consists of 8 members, including the Mayor, whose terms do not expire until after January 1, 2016 or later; and

**WHEREAS**, the BOE and the BOA took separate actions in order to attempt to comply with the Charter; and

**WHEREAS**, the BOA has commenced a civil action against the BOE and Ms. Gonzalez in the Superior Court for the State of Connecticut, New Haven Judicial District, having Docket Number CV-16-6060092 (the "Civil Action"); and

**WHEREAS**, the Civil Action has asserted a *quo warranto* action against Ms. Gonzalez that seeks her removal from the BOE and asserts that the BOE's composition of 8 members, including the Mayor, has violated Article VII, Section 3 of the Charter; and

**WHEREAS**, the BOE and Ms. Gonzalez have defended this action and have asserted that Ms. Gonzalez is entitled to hold her seat until December 31, 2018 without violating the Charter; and

**WHEREAS**, the Parties wish to resolve this matter voluntarily and amicably, without continued litigation,

### **IT IS HEREBY AGREED TO AS FOLLOWS:**

1. Article VII, Section 3(A)(2) of the Charter states that effective January 1, 2016, the BOE is to be comprised of 7 members, including the Mayor, [two (2) elected members and four (4) appointed members] plus two (2) non-voting student members. However, in accordance with Article VII, Section 3(A)(3) of the Charter and the prior Charter, five (5) members have been properly appointed, the citizens have elected two (2) members and the Mayor sits per her

title, all of whom are entitled to serve out their complete terms; and all of which expire on or after January 1, 2016. Thus, the BOE currently has a total of 8 members, including the Mayor [two (2) elected members and five (5) appointed members], plus two (2) non-voting student members. The Parties agree that the Charter's inconsistency between Sections 3(A)(2) and 3 (A)(3) of Article VII, which has caused this dispute and is the basis for the Civil Action, was caused by an error and/or oversight in the drafting of a clear and explicit transition provision in the Charter.

2. In order to give effect to all of the provisions of the Charter and to resolve this dispute, the Parties agree that they shall act, under Article VII, Section 3 of the Charter, as follows, until December 31, 2016:

- (i) The BOE shall be comprised of 8 members with voting privileges, which shall consist of the Mayor; the five (5) appointed members;<sup>1</sup> and the two (2) elected members [plus the two (2) non-voting student members];
- (ii) Until December 31, 2016, the BOE shall be made up of 8 members with voting privileges, including the Mayor, two (2) elected members and five appointed members, plus two (2) non-voting student members. However, no more than 7 of the members with voting privileges, including no more than 4 appointed members, shall serve as a member at each BOE meeting;
- (iii) Until December 31, 2016, the BOE shall, in two week increments, rotate the appointed members such that one appointed member shall not be a voting member during that two week period. The process for selecting and rotating the appointed members shall be at the discretion of the BOE but shall be accomplished fairly such that each rotated member has as equal an opportunity as is logistically possible throughout the remainder of 2016 to participate and vote. Nothing shall prohibit any elected member from participating and/or voting at any meeting;<sup>2</sup>
- (iv) The appointed member so rotated shall not participate in a meeting as a BOE member, nor shall he or she vote at a BOE meeting. However, nothing herein shall prohibit that member from attending any BOE meeting as a member of the general public;
- (v) Nothing in this Agreement shall affect the ability of any student member to attend any BOE meeting in any capacity; and
- (vi) The Parties agree that this interpretation of the Charter shall simultaneously give effect to Article VII, Section (3)(A)(2) and Section 3(A)(3) and any other provision of the Charter relating to the composition of the BOE. This interpretation shall enable the BOE members currently serving to serve out their full appointed or elected terms, while having no more than 7 voting members at each meeting.

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<sup>1</sup> The current appointed members are: Alicia Caraballo, Che Dawson, Daisy Gonzalez, Michael Nast and Carlos Torre.

<sup>2</sup> The member who has been rotated to non-voting status shall not sit in place of a member who is absent for a meeting.

3. There are two appointed members currently serving whose terms expire on December 31, 2016. No later than January 1, 2017, the BOE, through attrition, shall reduce its composition to 7 total members, including the Mayor [two(2) elected members and four (4) appointed members], plus two (2) non-voting student members. This shall include four (4) appointed members; 2 elected members; and the Mayor. Accordingly, the Mayor, in accordance with the Charter, shall appoint only one person to fill the anticipated vacancies on the BOE at the end of 2016 such that one appointed position shall lapse at that time. The interpretation and rotation set forth in Paragraph 2 above shall cease on December 31, 2016.

4. Upon the approval and execution of this Agreement by all Parties, the BOA and BOE shall respectively take the action necessary, whether by Order, Resolution or otherwise, to memorialize this agreement to implement all relevant provisions of the Charter.

5. Upon the execution of this Agreement by all Parties, the BOA shall formally take action to rescind, withdraw and/or repeal its Order of December 21, 2015 (Order LM-2014-0504), regarding Ms. Gonzalez such that Ms. Gonzalez is entitled to hold her seat on the BOE and to serve out her four (4) year term, which shall expire on December 31, 2018.

6. The members of the BOA and the BOE (including Ms. Gonzalez) shall respond to any request from the public, including but not limited to the press, by adopting the following agreed upon joint statement:

"We are pleased that the Parties were able to work collaboratively to bring about a mutually beneficial resolution. We believe that the Parties' resolution gives effect to all provisions of the Charter and allows them to continue to go about their efforts to serve the students and residents of the City of New Haven."

7. The Parties acknowledge that this Agreement may be subject to public disclosure in accordance with the Connecticut Freedom of Information Act, C.G.S. Section 1-200 *et seq.* Notwithstanding, they agree that they shall respond to any inquiries or requests for comment as set forth in Paragraph six (6) above.

8. This Agreement is contingent upon it being approved by a vote of the BOA and the BOE at a lawfully conducted meeting and its execution by all Parties, duly authorized. Should either entity reject this Agreement or fail to approve this Agreement, it shall be deemed null and void. If such occurs, then the BOA reserves its right to proceed with the Civil Action, without having waived any claims or allegations it has made in said action. Similarly, the BOE and Ms. Gonzalez reserve their rights to continue to defend said action, without having waived any defenses or claims that they have made in said action.


9. Upon the execution of this Agreement by all Parties, the BOA shall file a withdrawal, with prejudice, of the Civil Action. The Board of Alders, the Board of Education and Daisy Gonzalez further understand and confirm that neither the BOA, the BOE nor Daisy Gonzalez, nor any individual member of the BOA or the BOE may revive the Civil Action or pursue any claim against each other, by any method, whether acting alone or in concert with another entity, based upon the same or similar facts and claims raised in the Civil Action or the

composition of the BOE. The signatory to this Agreement on behalf of the Parties hereby represents and affirms that he/she has the permission, authority and consent to assert this waiver of any future claim on behalf of each individual member of the respective parties.

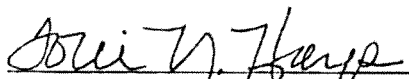
10. The Parties hereby agree that if any person or entity shall in any way contest or attack the substance of this Agreement, whether by lawsuit or otherwise, the Parties shall and here do individually and publicly assert their support and defense of this Agreement and their interpretation of the Charter as set forth herein.

11. The Parties understand that should any Court or tribunal of competent jurisdiction find any portion of this Agreement to be unenforceable, or should it find that any interpretation by the Parties of the Charter be found to be incorrect, then the decision of the Court or tribunal shall be binding upon the Parties.

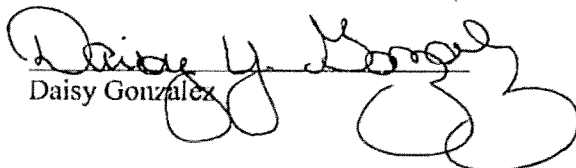
12. This Agreement shall be interpreted in accordance with the laws of the State of Connecticut.

  
On Behalf of the New Haven  
Board of Aldermen ALDERMAN

3-21-16  
Date

  
On Behalf of the New Haven  
Board of Education

3-19-16  
Date

  
Daisy Gonzalez

3-19-16  
Date