

MEMORANDUM OF AGREEMENT
between the
MIDDLETON-CROSS PLAINS AREA SCHOOL DISTRICT BOARD OF EDUCATION
and
JASON PERTZBORN

RE: VOLUNTARY RESIGNATION OF JASON PERTZBORN
JASON PERTZBORN

This Agreement is made and entered into by and between the Middleton-Cross Plains Area School District Board (hereinafter referred to as the "District" or "Board" or "Employer"), and Mr. Jason Pertzborn (hereinafter referred to as "Mr. Pertzborn" or the "Employee") who have reached the following agreement regarding Mr. Pertzborn's resignation from employment with the District. The Agreement includes the following terms and conditions.

1. Voluntary Resignation Effective January 24, 2023:

Mr. Pertzborn voluntarily resigns from District employment which will become effective at the end of the workday on January 24, 2023. The District hereby accepts the Employee's resignation.

2. Consideration: In exchange for Mr. Pertzborn's voluntary resignation (*see supra*, Part 1) and waiver of claims (Part 3 and Part 4), and conditioned on his decision not to revoke his acceptance of this Agreement, the District shall provide the following consideration to Mr. Pertzborn to which he would not otherwise have been entitled had he not signed this Agreement:

- A. The Employer shall waive the liquidated damages (\$1,500) that the Employee would have been required to pay to the Employer pursuant to his 2022-2023 Contract.
- B. The Employer will continue the Employee's dental insurance through June 30, 2023, with the same Employer/Employee contributions towards premiums that are in place now.
- C. The Employer shall continue payment of Employee's regular salary through February 28, 2023, subject to normal withholding and payments shall be paid on the District's regularly scheduled payroll dates.
- D. The District will provide a letter of reference setting forth Mr. Pertzborn's dates of employment, positions held, and committees served on.
- E. The Employer and Employee agree to state only that Mr. Pertzborn is resigning for personal reasons and will answer any inquiries in the same manner.

- F. Effective March 1, 2023, the Employer will not challenge the Employee's application for unemployment insurance benefits on the basis of either termination for substantial fault, termination for misconduct, or quit, but shall respond truthfully to any inquiry to which it is legally obligated to respond.
 - G. Prior Employment Statements: Mr. Pertzborn will not make disparaging or defamatory comments about the District, his employment tenure with the District, or those who are current employees, Board members, or current students of the Middleton-Cross Plains Area School District unless such statements are required by law. Likewise, the District agrees "Leadership Personnel" will not make any disparaging or defamatory statements regarding, Employee or Employee's separation from employment unless such statements are required by law. The term "Leadership Personnel" shall mean Dr. Dana Monogue and other members of the District Services Team. However, nothing in this paragraph shall prohibit either party from responding to any governmental inquiries, audits, or investigations and does not prevent the District or Mr. Pertzborn from releasing any factual statement based on the results of any ongoing investigation.

Nothing in this paragraph of the Agreement is intended to, or shall, interfere with Mr. Pertzborn's rights under federal, state, or local civil rights or employment discrimination laws (including, but not limited to, Title VII, the ADA, the ADEA, GINA, USERRA, or their state or local counterparts) to file or otherwise institute a charge of discrimination, to participate in a proceeding with any appropriate federal, state, or local government agency enforcing discrimination laws, or to cooperate with any such agency in its investigation. Mr. Pertzborn shall not, however, be entitled to any relief, recovery, or monies in connection with any such suit brought against any of the Released Parties, regardless of who filed or initiated any such complaint, charge, or proceeding.
 - H. The items listed above constitute a comprehensive list of compensation and benefits that the District shall owe Mr. Pertzborn and the District shall not owe Mr. Pertzborn anything not contained in this agreement.
3. Waiver of Claims for Reemployment or Claims under Employee Handbook or Board Policy:
- A. Mr. Pertzborn further hereby waives and foregoes any rights that Mr. Pertzborn may otherwise have under his individual contract between the District and Mr. Pertzborn.
 - B. Mr. Pertzborn hereby waives and forgoes any rights to any hearing or grievance underneath the District's Employee Handbook, Board policies, practice, common law, constitution, or statute.
 - C. Mr. Pertzborn waives and forgoes any rights to a pre-termination hearing, a private conference, and/or a continuing contract under Wis. Stat. § 118.22. Mr. Pertzborn

further hereby waives and forgoes any rights that Mr. Pertzborn may otherwise have under his individual contract between the District and Mr. Pertzborn.

4. Waiver of Claims:

- A. In consideration for the benefits described and by execution of this Agreement, Mr. Pertzborn fully and forever discharges and releases the District, its officers, insurers, attorneys, agents, Board members, employees, representatives, or other persons acting for or on behalf of the District, from any and all claims, compensations, costs, expenses, attorneys' fees, causes of action, damages (including but not limited to punitive damages), demands, or causes of action, known or unknown, arising out of, resulting from, or in conjunction with or relating to his employment and/or separation from employment with the District (because Mr. Pertzborn is age 40 or older, acceptance of this Agreement also will release any and all claims under the Federal Age Discrimination in Employment Act), but not including acts committed after the date this release is executed (including breach of this Agreement).
- B. By executing this Agreement, Mr. Pertzborn is not releasing or waiving any right to the benefits stated herein or the right to institute a legal action to enforce any of the provisions of this Agreement.
- C. Mr. Pertzborn acknowledges that he has carefully read this Agreement which contains a waiver and release of rights and understands its contents and consequences, and that he has been given the opportunity to consult with his representative(s), including but not limited to an attorney, that the only promises made to him to sign this Agreement are those stated in the Agreement; that he has had sufficient time to review this Agreement, and that he is signing this Agreement knowingly and acknowledges he has not relied on any representations, promises, or agreement of any kind to him in connection with his decision to accept this Agreement except those set forth in this document.
- D. Nothing in this section of the Agreement is intended to, or shall, interfere with Mr. Pertzborn's rights under federal, state, or local civil rights or employment discrimination laws (including, but not limited to, Title VII, the ADA, the ADEA, GINA, USERRA, or their state or local counterparts) to file or otherwise institute a charge of discrimination, to participate in a proceeding with any appropriate federal, state, or local government agency enforcing discrimination laws, or to cooperate with any such agency in its investigation. Mr. Pertzborn shall not, however, be entitled to any relief, recovery, or monies in connection with any such suit brought against any of the Released Parties, regardless of who filed or initiated any such complaint, charge, or proceeding.
- E. Acknowledgment of Extent of Agreement: Except as otherwise stated herein, Mr. Pertzborn affirms that he has not filed or caused to be filed, and is presently not a party to any claim, complaint, or action against the Middleton-Cross Plains Area

School District in any forum. If any such claim of any character has been filed, the Employee hereby agrees to formally withdraw said claim with prejudice. Mr. Pertzborn further affirms that he has not been denied any leave requested under state or federal family and medical leave provisions nor retaliated against because of actions taken under state or federal family and medical leave provisions.

4. Claims Not Released:

The parties understand that this Agreement does not waive any claims that Mr. Pertzborn may have as a) COBRA rights; or b) any claim that cannot by law be released or waived. The waiver and release of claims by Mr. Pertzborn do not include any claim or right that may arise after the date of this Agreement, nor does it include a release or waiver of the right to institute legal action for the sole purpose of enforcing the terms of this Agreement.

5. Laws of Competent Jurisdiction

This Agreement is covered by the laws of the State of Wisconsin. The parties consent to the personal jurisdiction of the courts of the State of Wisconsin, both state and federal, with respect to any action arising out of this Agreement. Venue shall properly and exclusively be in Dane County, Wisconsin (for state court) and the Western District of Wisconsin (for federal court).

6. Confidentiality

The Parties will not publicize or disclose the existence and terms of this Agreement, except as otherwise required by law or as is necessary to secure appropriate legal advice regarding compliance with or enforcement of this Agreement, to secure professional advice regarding the tax consequences of, or to properly make tax filings as necessary in regard to, the settlement of this Agreement. However, the Employer may make such disclosures to its employees and third parties as is necessary to comply with and implement the terms of this Agreement. From the date of this Agreement, the parties shall not initiate any communication with any third parties to disclose the terms of this Agreement or the facts or circumstances leading up to the entering into this Agreement.

7. Return of Property

Mr. Pertzborn agrees that, as a condition of his receipt of the benefits described in this Agreement, he has returned or will return to the District all of its property and all of the property of its present and former officers, directors, agents, students and employees which he possesses or over which he has direct or indirect control, including, but not limited to, all equipment, access cards, monies, records and files (including but not limited all pupil records, with or without personally identifiable information), credit cards, office keys, cellular telephones, pagers or beepers, electronically encoded information such as computer disks, flash drives, etc., and any and all passwords associated with any password-protected files, or websites used in the course of his services to the District, and all copies of such District property. All such property will be returned no later than January 25, 2023.

8. Reemployment

Mr. Pertzborn agrees that he will not apply for or seek employment with the District at any time and that he expressly declines reinstatement, reemployment, or rehire by the District unless by mutual agreement and waives all rights to claim such relief. If Mr. Pertzborn should apply for employment with the District in the future, he agrees that he will have no entitlement to such employment and that he may be denied such employment on the basis of this Agreement.

9. Drafter

This Agreement is the result of an arm's length negotiation and in resolving any ambiguity in this Agreement, none of the parties hereto shall be deemed to have been the drafter hereof.

10. Savings Clause

If any article or part of this Agreement is held to be invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any part should be restrained by any tribunal, the remainder of the Agreement shall not be affected thereby.

12. Waiver

The failure of the parties to insist, in any one or more instances, upon the performance of any terms of this Agreement shall not be construed as a waiver or relinquishment of any rights granted hereunder or the future performance of any such term, covenant, or condition.

13. Complete Agreement and Agreement Construction

A. The parties understand and agree that this document contains the entire agreement. The parties agree that this Agreement shall be non-precedential with regard to the application of its terms and conditions to another employee and furthermore agree that this Agreement constitutes the full and complete agreement between the parties on the subject(s) covered herein. The terms of this Agreement shall not be construed under any circumstance as an admission of guilt, liability, or culpability on the part of any party and shall additionally not be construed as an admission by the District that a violation of any legal obligation owed to Mr. Pertzborn by the District has occurred as the result of any action taken by the District with regard to the employment of Mr. Pertzborn. Additionally, this Agreement shall not establish any precedent or past practice. In entering into this Agreement, the parties represent that they have relied upon the advice of their respective representatives or attorneys or both. Mr. Pertzborn declares and acknowledges that no promise or inducement, not expressed in this Agreement, has been made to him by the District. Mr. Pertzborn states that he has read this Agreement and understands it, that he has had a sufficient

period of time in which to consider it and that he voluntarily accepts the terms of this Agreement.

- B. Headings: Paragraph headings have been inserted for the convenience of reference only. If there shall be any conflict between any such heading and the text of this Agreement, the text shall have control.
- C. Amendment: This Agreement may be modified only in writing by all of the parties hereto. The parties agree that this Agreement shall not be deemed or construed to have been modified, amended, rescinded, canceled, or waived in whole or in part unless the parties agree in writing.
- D. Severability: The parties understand and agree that the provisions of this Agreement shall be deemed severable, and the invalidity or unenforceability of any one or more of the provisions or clauses shall not affect the validity or enforceability of the other provisions or clauses hereof.
- E. Counterparts: This Agreement may be executed in counterparts and shall be as effective as if executed on one document. Facsimile signatures shall be as effective and valid as original signatures. This Agreement shall only be valid and binding upon the signatures of all parties.

IN WITNESS, THEREFORE, the undersigned further state that they have carefully read the foregoing Agreement, know, and understand its contents and sign the same under their own free will, being duly authorized to do so.

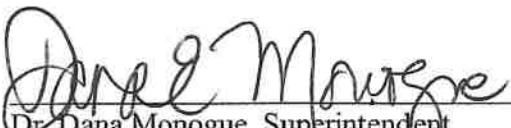
Entered into on this, 24th day of January 2023.

For the District



Mr. Robert Hesselbein, President
Middleton-Cross Plains Area School District School Board

1/30/2023
Date



Dr. Dana Monogue, Superintendent,
Middleton-Cross Plains Area School District

1-30-23
Date

For the Employee


Mr. Jason Pertzborn

11/25/23
Date

