

**NOTICE OF TORT CLAIM AGAINST
EPIC CHARTER SCHOOL AN INDEPENDENT SCHOOL DISTRICT OF
OKLAHOMA**

TO: c/o Clerk of Independent School District of Oklahoma
EPIC Charter Schools
c/o David Chaney, Superintendent
Independent School District of Oklahoma
EPIC Charter Schools
4101 NW 122nd Street
Oklahoma City, Oklahoma 73120

CLAIMANT, NOELLE WALLER, submits the following information as NOTICE OF A CLAIM for damages against the EPIC Charter School ("EPIC"), an Independent School District of Oklahoma, and pursuant to 51 Oklahoma Statutes, Section 151 *et seq.* ("Oklahoma Government Tort Claims Act"):

1. The Claimant's name is NOELLE WALLER ("Claimant"). Claimant currently resides at [REDACTED]. Claimant's telephone number is [REDACTED]. [REDACTED].
2. Claimant was hired by EPIC in November 2013.
3. Claimant worked at EPIC for nearly five years.
4. Claimant had a valid and enforceable employment contract with EPIC that covered the 2017–2018 school year.
5. Unlike Oklahoma's traditional public schools, EPIC has a bonus system, wherein EPIC teachers, principals, and certain administrators can receive monetary bonuses when students meet certain benchmarks. This bonus system is divided into four categories: Retention, Test Scores, Attendance, and Students ability to move on to the subsequent grade level.
6. Toward the beginning of her stint at EPIC, Claimant succeeded.
7. In or around the 2015–2016 schoolyear, EPIC officials started to press Claimant to manipulate her roster based on measures of achievement and aptitude for testing.

8. EPIC regularly tested student using NWEA MAP tests to provide students benchmarks to help them test well for yearly state testing.

9. Based on their scores on the NWEA MAP tests, students were grouped and color coded based on their scores—red for students who tested poorly, yellow for students whose scores could stand improvement, and green for students who tested well.

10. At staff meetings, EPIC teachers were regularly told to ensure that their red students were compliant with truancy standards.

11. EPIC repeatedly changed its truancy standards to the point that they was nearly impossible to comply with. EPIC's enforcement of the truancy standards was lax for yellow and green students, but EPIC insisted that the standards be rigorously applied to red students.

12. In one-on-one meetings, Claimant's principal told her that specific students were not compliant with truancy standards and that Claimant should eliminate these students from her rolls. These students always happened to be in the red.

13. This type of pressure always increased around January–February, as the time for state testing approached.

14. Initially, Claimant buckled under the pressure and held her low-performing students to the letter of EPIC's truancy standards.

15. But as time went on, Claimant came to understand that EPIC's actions had nothing to do with enforcing truancy standards and that poor testers were being singled out for enforcement of these policies, even if they were doing what their teachers asked of them and trying to comply with EPIC's exacting standards.

16. Eventually, Claimant started to push back, particularly in the 2017–2018 schoolyear. Claimant made clear to her principal, Jodie Shupe, that she would not continue

removing students who tested poorly from her rolls, when they were doing everything Claimant asked of them.

17. Shupe responded by telling Claimant that administrators were insisting that if teachers wanted to succeed at EPIC, they needed to hold low-performing students to the truancy standards and remove these students from their rolls. Shupe also told Claimant that this would have an effect on her bonus.

18. Shupe seemed to understand Claimant's position, but it soon became clear to Claimant that Shupe's actions were being directed by persons higher up the chain in EPIC's hierarchy. And Shupe reminded Claimant that her decision to keep these students on her roster would affect her bonus.

19. Claimant insisted that she was going to act in the best interest of her students, and she refused to discriminate on the basis of aptitude and measures of success.

20. Without any warning, in or around June 2018, Claimant was told that she was being terminated because of state test scores. To the extent the test scores of Claimant's students were lower than those of her peers', the difference was attributable to Claimant's refusal to arbitrarily eliminate students who did not test well from her rolls.

21. EPIC timed Claimant's termination to deprive Claimant of much of the benefit of the bonus that she had earned under EPIC's bonus structure as provided for in her employment contract; these actions violated the covenants of good faith and fair dealing that are implied in every Oklahoma contract.

22. The Oklahoma Charter Schools Act prohibits limiting student admission based on measures of achievement or aptitude. These statutes make clear the public policy of Oklahoma is

that Charter Schools shall not limit admission based on measures of achievement or aptitude, which can impact the general public at large.

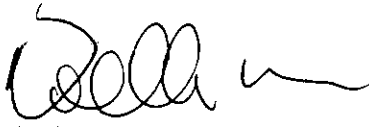
23. Claimant refused to withdraw students, which would have been an action in violation of Oklahoma's public policy, and refused to cooperate in EPIC's unlawful actions. Her termination was therefore in violation of the public policy of this state under the standards articulated in *Burk v. K-Mart*, 1989 OK 22, 770 P.2d 24.

24. As a direct result of Claimant's retaliatory discharge from employment, she suffered economic loss, mental anguish and emotional distress, sleeplessness, anxiety, embarrassment, humiliation, injury to her reputation, and loss of enjoyment of life, all to her damage in excess of One Hundred Twenty-Five Thousand Dollars (\$125,000.00).

25. Claimants authorized agents to settle this claim are Tanner France and Jonathan Irwin Attorneys-at-Law, whose law office, Ward & Glass, is located at 1601 36th Ave NW, Norman, Oklahoma 73072, and their telephone number is (405) 360-9700.

26. Pursuant to 51 O.S. § 157, Claimant will initiate a suit against the Independent School District No. 89 Oklahoma City Public Schools, if this claim has not been approved within ninety (90) days from the date of its filing.

Dated May 18, 2019.



NOELLE WALLER