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and similarly-situated and aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

BETHANY A. BUTLER, on behalf of
herself and similarly-situated and aggrieved
employees,

Plaintiff,

v.

POWERSCHOOL GROUP LLC, a
Delaware Limited Liability Company; and
DOES 1 through 10, Inclusive,

Defendants.

Lead Case No. 34-2021-00299363-CU-OE-GDS
ASSIGNED FOR ALL PURPOSES TO:
The Honorable Jill H. Talley
Department 27

CLASS AND REPRESENTATIVE ACTION

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS,
REPRESENTATIVE, AND COLLECTIVE
ACTION SETTLEMENT**

Date: January 5, 2024
Time: 9:00 a.m.
Dept.: 27
Judge: Honorable Jill H. Talley

Complaint filed: April 26, 2021
Trial date: Not set

1 This matter came on for hearing on January 5, 2024 in Department 27 of the above-
2 captioned Court on Plaintiff's Motion for Order Granting Preliminary Approval of Class,
3 Representative, and Collective Action Settlement ("Motion"). Having fully reviewed the
4 Motion, supporting memorandum of Points and Authorities and Declarations, the Class,
5 Representative ("PAGA"), and Collective Action Settlement Agreement ("Agreement") and the
6 proposed Preliminary Approval Notice attached as Exhibit A to the Agreement, having
7 carefully analyzed the Agreement and Preliminary Approval Notice, and in recognition of the
8 Court's duty to make a preliminary determination as to the reasonableness of any proposed class
9 action settlement, and if preliminarily determined reasonable, to ensure proper notice is
10 provided to Class Members in accordance with due process requirements, and to set a Final
11 Approval Hearing to consider the good faith, fairness, adequacy and reasonableness of the
12 proposed Settlement, THE COURT MAKES THE FOLLOWING DETERMINATIONS AND
13 ORDERS:

14 1. The Court conditionally finds, for purposes of approving this settlement only,
15 the proposed Class meets the requirements for certification under section 382 of the California
16 Code of Civil Procedure: (a) the proposed Class is ascertainable and so numerous joinder of all
17 members of the Class is impracticable; (b) there are questions of law or fact common to the
18 proposed Class, and a well-defined community of interest among members of the proposed
19 Class with respect to the subject matter of the class action; (c) the claims of the Class
20 Representative are typical of the claims of the members of the proposed Class; (d) the Class
21 Representative has and will fairly and adequately protect the interests of the Members of the
22 Class; (e) a class action is superior to other available methods for an efficient adjudication of
23 this controversy in the context of settlement; and (f) counsel of record for Class Representative
24 are qualified to serve as Counsel for the Class.

25 2. The Court finds on a preliminary basis the Agreement, attached as Exhibit 1 to
26 the Declaration of Michael Singer, incorporated, and made a part of this Order of preliminary
27 approval, appears to be within the range of reasonableness of a settlement which could
28 ultimately be given final approval by this Court.

1 3. It appears to the Court on a preliminary basis: (a) the Gross Fund Value is fair
2 and reasonable to Class Members when balanced against the probable outcome of further
3 litigation relating to class certification, liability and damages, and potential appeals; (b)
4 significant investigation, research, and informal discovery, were conducted and counsel for the
5 Parties are able to reasonably evaluate their positions; (c) settlement will avoid substantial costs,
6 delays, and risks of further prosecution of the case; and (d) the proposed Settlement was reached
7 through serious, non-collusive negotiations facilitated by an experienced mediator.

8 4. Accordingly, good cause appearing, the Motion for Order Granting Preliminary
9 Approval of Class, PAGA, and Collective Action Settlement is GRANTED, and the Court
10 incorporates the Agreement in this Order.

11 5. For purposes of this Settlement, Class Members are defined as all non-exempt
12 employees who have been employed by Defendant in California at any time during from June
13 30, 2017, through the date of preliminary approval, or thirty (30) days after Plaintiff files her
14 motion for preliminary approval, whichever is sooner.

15 6. For purposes of this Settlement, Collective Members are defined as all non-
16 exempt employees who have been employed by Defendant anywhere in California from June
17 30, 2018, through the date of preliminary approval, or thirty (30) days after Plaintiff files her
18 motion for preliminary approval, whichever is sooner.

19 7. The Court finds the proposed Preliminary Approval Notice fairly and adequately
20 advises Class Members of (a) pendency of the Class Action Settlement; (b) conditional Class
21 certification for settlement purposes only; (c) preliminary Court approval of the proposed
22 Settlement; (d) the date, time and place of the Final Approval Hearing; (e) the terms of the
23 proposed Settlement and the benefits available to Class Members under the Settlement; (f) their
24 right to receive a proportionate share of the Net Settlement Fund without returning a claim
25 form; (g) their right to request exclusion, and procedures and deadline for doing so; (h) their
26 right to object to the Settlement, and the procedures and deadline for doing so; and, (i) their
27 right to file documents in opposition to the Settlement, and appear at the Hearing.

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1 8. The Court finds the proposed Preliminary Approval Notice provides the best
2 practicable notice to the Class and comports with all constitutional requirements, including
3 those of due process. Accordingly, good cause appearing, the Court APPROVES the
4 Preliminary Approval Notice.

5 9. The Court further finds mailing of the Preliminary Approval Notice to the last
6 known address of Class Members with measures taken for address verification and skip tracing
7 of bad addresses, as described in the Agreement, is an effective method of notifying Class
8 Members of their rights in the class action and the Settlement. Accordingly, IT IS ORDERED:

9 A. Rust Consulting, Inc. be appointed the Settlement Administrator to
10 administer the Settlement of this matter as more specifically set forth in the Agreement;

11 B. Cohelan Khoury & Singer and D.Law, Inc. be appointed as Class and
12 Collective Counsel;

13 C. Plaintiff Bethany A. Butler be appointed as Class and Collective
14 Representative;

15 D. Within fourteen (14) calendar days (or, if that date falls on a weekend or
16 holiday, the next business day) after the date the Court enters an Order Granting Preliminary
17 Approval, Defendant shall provide the Settlement Administrator the Class List containing the
18 following information in a Microsoft Office Excel format for each Class Member, Collective
19 Member, and PAGA Group Member: (i) full name; (ii) employee ID number; (iii) last known
20 street address; (iv) number of workweeks worked during the Class Period, FLSA Period, and
21 PAGA Period; and (v) social security number.

22 E. Within fourteen (14) calendar days (or, if that date falls on a weekend or
23 holiday, the next business day) days after receipt of the Class List, and after checking Class
24 Member information against the National Change of Address Database, the Settlement
25 Administrator shall send the Preliminary Approval Notice to Class Members via First Class
26 U.S. mail, using the most current, known mailing addresses for each Class Member.

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1 F. On or before sixty (60) calendar days from the date the Settlement
2 Administrator first mails the Preliminary Approval Notice (or, if the 60th day falls on a Sunday
3 or holiday), Class Members who wish to exclude themselves from the Class must submit a
4 written request for exclusion in the manner set forth in the Preliminary Approval Notice. In the
5 event that a Preliminary Approval Notice is re-mailed to a Class Member, the Response
6 Deadline for that Class Member shall be the extended by fifteen (15) calendar days.

7 G. On or before sixty (60) calendar days from the date the Settlement
8 Administrator first mails the Preliminary Approval Notice (or, if the 60th day falls on a Sunday
9 or holiday, the next business day), Class Members who wish to dispute the information upon
10 which their Settlement Payment will be calculated must submit a written dispute in the manner
11 set forth in the Preliminary Approval Notice. In the event that a Preliminary Approval Notice is
12 re-mailed to a Class Member, the Response Deadline for that Class Member shall be the
13 extended by fifteen (15) calendar days.

14 H. On or before sixty (60) calendar days from the date the Settlement
15 Administrator first mails the Preliminary Approval Notice (or, if the 60th day falls on a Sunday
16 or holiday, the next business day), Class Members who Object to the Settlement must submit a
17 written objection in the manner set forth in the Preliminary Approval Notice. Class Members
18 may also appear at the Final Approval Hearing to orally object, even if they have not submitted
19 a written objection. In the event that a Preliminary Approval Notice is re-mailed to a Class
20 Member, the Response Deadline for that Class Member shall be the extended by fifteen (15)
21 calendar days.

22 10. IT IS FURTHER ORDERED the Final Approval Hearing shall be held before
23 the undersigned at 9:00 a.m. on _____, 2024 in Department 27 of the Superior
24 Court of California, County of Sacramento, Gordon D. Schaber Courthouse located at 720 9th
25 Street, Sacramento, California, 95814, to consider the fairness, adequacy, and reasonableness of
26 the proposed Settlement preliminarily approved by this Order of Preliminary Approval, and to
27 consider the application for Class Representative Enhancement Payment, Class Counsel's
28 Attorneys' Fees and Costs incurred.

1 11. IT IS FURTHER ORDERED if the Court does not enter Judgment in
2 accordance with the Agreement, or it is vacated or reversed, the Parties will retain all rights,
3 status quo ante, and this matter shall proceed.

4 12. IT IS FURTHER ORDERED that pending further order of this Court, all
5 proceedings in this matter, except those contemplated by this Order and the Agreement are
6 stayed.

7 13. The Court reserves the right to adjourn or continue the Final Approval Hearing
8 without further notice to Class Members. If written objections are submitted, Class Counsel
9 shall notify objecting Class Members of the new date and time set for the Final Approval
10 Hearing.

11 IT IS SO ORDERED.

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13 Date: _____

The Honorable Jill H. Talley
Judge of the Superior Court