

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This **SETTLEMENT AND RELEASE AGREEMENT** ("Agreement") is made and entered into by and between _____ and _____, individually and on behalf of their _____ (collectively referred to as "Petitioners"), on one side, and the Brick Township Board of Education (the "Board"), on the other side.

WITNESETH

WHEREAS, the Board is the local educational agency responsible for providing with a free appropriate public education; and

WHEREAS, _____ is an _____ student, who is classified as eligible for special education and related services under the category of "Autistic"; and

WHEREAS, a dispute arose regarding the appropriate placement for A.O. on a going-forward basis; and

WHEREAS, _____ subsequently filed a Petition for Due Process rejecting the Board's IEP and seeking an out-of-district placement, which Petition was docketed before the Office of Administrative Law as EDS-05849; and

WHEREAS, the parties desire to settle any and all outstanding claims, controversies, demands, actions or causes of action set forth in the Petition and with regard to the placement of _____ for the 2020/2021 school year; and

WHEREAS, the parties deem it in their best interests to set forth in a formal written agreement their respective rights, duties and obligations; and

NOW, THEREFORE, in consideration of the mutual promises, covenants, and other good and valuable consideration set forth herein, it is hereby agreed by and between the parties hereto as follows:

- A. The parties agree that _____ shall be enrolled in the SEARCH Day Program ("SEARCH"), commencing July 1, 2020 (Extended School Year 2020) and continuing throughout the 2020/2021 school year.
- B. The Board agrees that it shall be responsible for all costs associated with placement at SEARCH, including tuition, transportation, and related services.
- C. The Parties agree that within fifteen (15) days of approval of this Agreement by the Administrative Law Judge, the District shall amend _____ IEP, without a meeting, to reflect his placement at SEARCH, effective July 1, 2020.
- D. The parties agree that they shall meet on or before May 1, 2021 for the purpose of developing an IEP for the 2021/2022 school year.

E. The Board agrees to contribute forty-six thousand dollars (\$46,000) towards Petitioners' costs, expert fees, and attorney fees. Petitioners shall not be eligible to seek reimbursement under federal or State special education law for any other costs or fees association with this Due Process Petition.

F. The Board's obligations to reimburse Petitioners shall cease if and when: (1) Petitioners fail to reside within the Board's geographic boundaries, pro-rated to the date of their departure; or (2) if any time during the 2020/2021 school years, [redacted] is disenrolled from SEARCH, pro-rated to the date of dis-enrollment. In the event that [redacted] is disenrolled or discharged from SEARCH, Petitioners will immediately request, in writing, that the Board hold an IEP meeting to discuss [redacted] program and placement.

G. **PARTIES' FUTURE RIGHTS AND OBLIGATIONS.** The parties expressly understand and agree that the placement and services set forth in this Agreement in no way whatsoever reflect that the Board agrees or acknowledges that the placement and related services previously provided to [redacted] by the District and/or being provided to [redacted] for the 2017/2018, 2018/2019, and 2019/2020 school years are not appropriate for [redacted] nor does the Board agree or acknowledge that an appropriate placement was not and is not available for [redacted] in-District. Rather this Agreement is made for the sole and exclusive purpose of settling all matters related to the placement [redacted] for the 2017/2018, 2018/2019, 2019/2020 and 2020/2021 school years and to avoid the uncertainties and expense associated with litigation.

H. MUTUAL RELEASE.

1. The parties hereby mutually release, acquit and forever discharge each other, their current and former members, officers, directors, agents, servants, employees, successors, attorneys, assigns and affiliates, of and from any and all claims, liabilities, demands, causes of action, damages, indemnities and obligations of every kind and nature, in law, equity, or otherwise, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way related to agreements, events, acts or conduct at any time prior to and including the date this Agreement is executed, to and including, but not limited to: any and all such claims and demands directly or indirectly arising from or in any way connected with the Board's obligation to provide [redacted] with a free and appropriate education; any and all claims for educational malpractice and other common law causes of action arising out of the Board's obligation to provide [redacted] with an appropriate education, including, but not limited to any all claims of educational malpractice, the Individuals with Disabilities Education Act, 20 U.S.C. § 1400, *et seq.*; N.J.S.A. 18A:46-1, *et seq.*; and N.J.A.C. 6A:14-1, *et seq.*
2. The parties hereby acknowledge and agree that they further expressly waive and assume the risk of any and all claims or damages which exist prior to the date of this Agreement, for which either party does not know of or suspect to exist, whether through ignorance, oversight, error, negligence, or otherwise and which, if known,

would materially effect their decision to enter into this Settlement Agreement and General Release.

- I. **INDEMNIFICATION.** Petitioners agree to indemnify and hold harmless the Board, their current and former members, officers, directors, agents, servants, employees, successors, attorneys, assigns and affiliates, of and from any and all claims, liabilities, demands, causes of action, costs, expenses, attorneys' fees, damages, indemnities and obligations of every kind and nature, in law, equity, or otherwise, known and unknown, suspected and unsuspected, disclosed and undisclosed, initiated by _____ upon reaching the age of majority arising out of or in any way related to agreements, events, acts, omissions or conduct at any time relative to _____ education, including but not limited to: any and all such claims and demands directly or indirectly arising from or in any way connected with the Board's obligation to provide _____ with an appropriate education through the date of this Agreement; claims pursuant to any federal, state or local laws or causes of action; claims pursuant to federal and state special educational laws including, but not limited to, the Individuals with Disabilities Education Act, 20 U.S.C. § 1400, *et seq.*; N.J.S.A. 18A:46-1, *et seq.*; and N.J.A.C. 6A:14-1.1, *et seq.* In the event that the Board shall be required to defend any such action initiated by _____ upon her reaching the age of majority and for a period of three (3) years thereafter, the Board shall be permitted to hire counsel of its own choice at the sole cost of _____ parents.
- J. **COVENANT NOT TO SUE OR USE ALLEGATIONS.** The parties covenant not to sue, initiate, or continue any legal or administrative proceedings or appeals with regard to any or all claims released herein, provided, however, that this shall not preclude any claims regarding a breach of this Agreement.
- K. **ADMISSIONS.** This Agreement is not and shall not in any way be construed as an admission by the parties or any of its officers, members, agents, attorneys, employees or representatives of the commission of any acts of wrongdoing whatsoever against _____, by any individual or entity, or that the Board, or any of its officers, members, agents, employees or representatives violated any federal or state constitutional prohibitions or any federal, state or local law, statute, ordinance, regulation or public policy of the State of New Jersey. Instead, this Agreement constitutes the good faith settlement of all matters and the Board specifically disclaims any liability to _____ or any other person or entity, on the part of itself, its officers, members, agents, employees or representatives. The parties have entered into this Agreement for the sole purpose of resolving claims, both asserted and unasserted, in order to avoid the burden, expense, delay and uncertainties of litigation.
- L. **CONFIDENTIALITY.** The financial terms of this Agreement shall be held in strictest confidence by all parties and shall not be publicized or disclosed in any manner whatsoever, except that: (a) either party may disclose this Agreement in confidence to their attorneys, accountants, auditors, tax preparers, and financial advisors; (b) the Board may disclose this Agreement as necessary to fulfill its obligation under the Open Public Records Act, as well as all other standard or legally required reporting or disclosure

requirements; and (c) the parties may disclose this Agreement insofar as such disclosure may be necessary to enforce its terms or as otherwise required by law.

- M. ENTIRE AGREEMENT.** This Agreement constitutes the complete, final and exclusive embodiment of the entire agreement between Petitioners and the Board with regard to the subject matter hereof. This Agreement is entered into without reliance on any promise or representation, written or oral, other than those expressly contained herein. It may not be modified except in a writing signed by the parties bound by any such modification. Each party has carefully read this Agreement, has been advised of its meaning and consequences by its respective attorneys, and signed the same of its own free will. The parties acknowledge that they have had the opportunity to consult with a representative of their choice and that they reviewed the agreement in detail with their counsel and fully understand its requirements and limitations and their duties and responsibilities. The parties further state that they are fully satisfied with the legal representation provided by their respective counsel.
- N. WARRANTIES.** Petitioners warrant that they are fully entitled and duly authorized to give this complete and final general release and discharge on behalf of themselves and on behalf of their minor child
- O. CONSTRUCTION.** For purposes of construction, this Agreement shall not be deemed to be drafted by any party, and any ambiguity shall not be construed against any party.
- P. SUCCESSORS AND ASSIGNS.** This Agreement shall bind and inure to the benefit of each party, as well as their officers, directors, agents, employees, members, successors, heirs, personal representatives, assigns, executors and administrators.
- Q. APPLICABLE LAW.** This Agreement shall be deemed to have been entered into and shall be construed and enforced in accordance with the laws of the State of New Jersey as applied to contracts made and to be performed entirely within New Jersey.
- R. SEVERABILITY.** If a court of competent jurisdiction determines that any term or provision of this Agreement is invalid or unenforceable, in whole or in part, then the remaining terms and provisions hereof shall be unimpaired. Such court will have the authority to modify or replace the invalid or unenforceable term or provision with a valid and enforceable term or provision that most accurately represents the parties' intention with respect to the invalid or unenforceable term or provision.
- S. FURTHER ACTS.** The parties agree to ~~cooperate~~ fully and execute any and all supplementary documents and to take all additional actions which may be necessary or appropriate to get full force and effect of the basic terms and interest of this Settlement Agreement and General Release.
- T. PARAGRAPH HEADINGS.** The paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

U. The acknowledge and agree that this Settlement Agreement and Release is subject to approval by the Brick Township Board of Education.

V. The Parties understand and agree to the terms of this Settlement Agreement and Release and have been provided sufficient time to review its terms. The Parties both assert that they are fully satisfied with the legal representation that they received in this matter.

IN WITNESS WHEREOF, the parties have duly authorized and caused this Agreement to be executed as follows:

**BRICK TOWNSHIP BOARD
OF EDUCATION**

By: _____
Stephanie Wohlrab, Board President

Date: _____

Witnessed:

By: _____
James W. Edwards, Jr.,
Business Administrator/Board Secretary

Date: _____

By: _____

Date: 02/19/20

By: _____

Date: 2/19/20