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Brick Township Board of Education

	:	
	:	STATE OF NEW JERSEY
	:	DEPARTMENT OF EDUCATION
Petitioner,	:	
	:	OFFICE OF SPECIAL EDUCATION
	:	PROGRAMS
v.	:	
	:	OFFICE OF ADMINISTRATIVE LAW
BRICK TOWNSHIP BOARD OF	:	
EDUCATION,	:	OAL DOCKET NO.: EDS 1400-2019S
	:	AGENCY REF. NO.: 2020- 30645
Respondent.	:	
	:	
	:	SETTLEMENT AGREEMENT AND
	:	RELEASE

WHEREAS who was born on is currently and
is eligible for the provision of special education and related services under 20 U.S.C. §1415 et
seq., and N.J.A.C. 6A:14-1.1 et seq.; and

WHEREAS, currently attends the Woods Services School (hereinafter “Woods”)
located in Langhorne, Pennsylvania, and he has attended Woods since September 7, 2016; and

WHEREAS, the Brick Township Board of Education (hereinafter “Board”) is the local
educational agency (“LEA”) with responsibility for providing a free and appropriate public
education (“FAPE”) in the least restrictive environment (“LRE”) to S.P.V. during the 2017-2018,
2018-2019, and 2019-2020 school years; and

WHEREAS, a dispute arose between the parties with regard to special education
services for the 2019-2020 school year; and

WHEREAS, on July 26, 2019, S.P.V. filed a petition for mediation challenging the
appropriateness of the Board’s IEPs for 2017-2018, 2018-2019, and 2019-2020 school
years; and

WHEREAS, the parties attempted to resolve the dispute by way of Mediation, but did not resolve the matter during Mediation; and

WHEREAS, the same July 26, 2019 Petition for Mediation was converted to a Due Process Petition at the September 9, 2019 Mediation Session; and

WHEREAS, on October 4, 2019, filed an Application for Emergent Relief seeking an Order requiring the Board to pay Woods any balance due in order to maintain educational placement there and requiring the Board to take all steps necessary to maintain placement at Woods pursuant to the “stay put” provision of the IDEA until the underlying proceedings had been completed; and

WHEREAS, on October 8, 2019, the parties received a written notice from the New Jersey Office of Administrative Law scheduling oral argument on the application for emergent relief before Administrative Law Judge, Dean Buono, (“ALJ Buono”) on October 11, 2019; and

WHEREAS, on October 9, 2019, the Board’s counsel filed both an opposition to the October 4, 2019 emergent relief application and a Cross-Motion to Disqualify Petitioner’s counsel; and

WHEREAS, on October 10, 2019, Petitioner’s counsel provided written responses to ALJ Buono regarding both the Board’s opposition to the application for emergent relief and the Board’s Cross-Motion to Disqualify Petitioner’s counsel; and

WHEREAS, the parties appeared before ALJ Buono on October 11, 2019, and, in the spirit of compromise and good faith negotiations, a partial resolution of the July 26, 2019 and October 4, 2019 disputes was reached; and

WHEREAS, the parties’ partial resolution of the July 26, 2019 and October 4, 2019 disputes whereby Petitioner agreed to withdraw his claims for the 2017-2018 school year and 2018-2019 school year, was placed on the record before ALJ Buono on October 11, 2019; and

WHEREAS, the Board’s Counsel drafted a proposed settlement agreement and emailed same to Petitioner’s Counsel on October 14, 2019; and

WHEREAS did not sign the proposed settlement agreement; and

WHEREAS, the matter was subsequently assigned to Administrative Law Judge Jeffrey N. Rabin; and

WHEREAS, on or about December 15, 2019, the parties participated in a conference call with ALJ Rabin who set hearing dates of March 2nd, March 6th, and March 9th of 2020; and

WHEREAS, the parties met on January 10, 2020 for S.P.V.'s IEP meeting to finalize an IEP for _____'s remaining time at Woods; and

WHEREAS, at the January 10, 2020 IEP meeting, the parties reached a resolution, agreeing (1) to allow _____ to remain at Woods and (2) that the Board would make payment to Woods for outstanding moneys owed by the Board to Woods; and

WHEREAS, on or about January 14, 2020, the parties participated in another conference call with ALJ Rabin at which time they advised ALJ Rabin that they had reached a resolution of the matter, and were finalizing how much money was owed by Brick to Woods so that the parties could execute a settlement agreement; and

WHEREAS, on or about January 20, 2020, Petitioner's counsel passed away and Ms. Merino Reisman subsequently took over as Petitioner's counsel; and

WHEREAS, on February 12, 2020, a telephone conference call was held among ALJ Rabin, Ms. Merino Reisman, and Paul C. Kalac, Esq., and as the result of that telephone conference, the parties agreed to resolve the litigation; and;

WHEREAS, there are no further issues to resolve in this matter as the parties have agreed to permit _____ to remain at Woods for the 2019-2020 school year and have agreed on an amount of money to be paid from Brick to Woods for _____ educational placement thereat.

NOW THEREFORE, as a result of the good faith negotiations between the parties, the following terms and conditions were agreed upon to resolve these litigations:

1. Regarding the July 26, 2019 petition for mediation (which was converted to a Due Process Petition at the September 9, 2019 mediation session), the parties previously reached a partial resolution of the claims whereby Petitioner agreed to withdraw his claims for the 2017-2018 school year and 2018-2019 school year. The terms of the partial resolution were placed on the record before ALJ Buono on October 11, 2019. Accordingly, the only issues that remain in the case concern payments for educational and therapeutic costs to Woods for the 2019-2020 school year, which is resolved in accordance with the terms set forth herein.
2. Regarding the October 4, 2019 application for emergent relief, the Board is legally responsible to make payments to Woods in the amount of \$89,044.68. The \$89,044.68 includes educational and therapeutic costs to Woods, but completely and totally excludes any financial obligations whatsoever for residential costs. Furthermore, the Board is not legally responsible in any way whatsoever for any residential costs to Woods for the time periods September 27, 2017 to June 30, 2020. The Board previously paid all financial obligations to Woods from July 14, 2017 through and

including to June 30, 2018. The Board also previously paid all financial obligations to Woods from September 1, 2018 through and including June 30, 2019.

The \$89,044.68 figure comprises the Board's obligations to pay Woods the following amounts for the following months:

July 2018	\$5,868.06
August 2018	\$4,487.34
July 2019	\$6,497.28
August 2019	\$4,331.52
September 2019	\$6,136.32
October 2019	\$7,580.16
November 2019	\$6,858.24
December 2019	\$5,414.40
January 2020	\$7,219.20
February 2020	\$6,497.28
March 2020	\$7,580.16
April 2020	\$6,497.28
May 2020	\$6,858.24
June 2020	\$7,219.20

On or before May 15, 2020, the Board will make a one (1) time lump sum payment of \$68,469.96 to Woods. This \$68,469.96 figure comprises the Board's obligations to pay Woods for the following months:

July 2018	\$5,868.06
August 2018	\$4,487.34
July 2019	\$6,497.28
August 2019	\$4,331.52
September 2019	\$6,136.32
October 2019	\$7,580.16
November 2019	\$6,858.24
December 2019	\$5,414.40
January 2020	\$7,219.20
February 2020	\$6,497.28
March 2020	\$7,580.16

The Board is legally responsible for making payments to Woods for the months of April 2020 (\$6,497.28), May 2020 (\$6,858.24), and June 2020 (\$7,219.20). The total amount for those three (3) months is \$20,574.72. The Board will make those payments on a monthly basis upon receiving an invoice from Woods. Upon receiving a monthly invoice, the Board will issue a purchase order and place payment on the agenda for the next, regularly scheduled monthly Board meeting. The Board is precluded from making advanced payments to Woods for April 2020, May 2020, and June 2020 unless the invoice/purchase order/Board approval process is followed.

All of the figures above (\$68,469.96 one [1] time lump sum payment and \$20,574.72 obligation for April 2020, May 2020, and June 2020) equal the Board's legal obligation of payment to Woods in the amount of \$89,044.68.

3. Resolution of Petitioner's July 26, 2019 petition for mediation (which was converted to a Due Process Petition at the September 9, 2019 mediation session) and his October 4, 2019 application for emergent relief resolve any and all of Petitioner's claims for compensatory education, residential reimbursement as a form of compensatory education, all costs and expenses incurred, including but not limited to, any tutoring services provided to _____ during the relevant periods, any claims for violations of Section 504 of the Rehabilitation Act and the Americans with Disabilities Act regarding alleged discriminatory acts by the Board, as well as, any and all other forms of requested relief related directly or indirectly to the provision of FAPE in the LRE, as well as, any reimbursement for attorneys' fees or expert fees in accordance with 20 U.S.C.A. Section 1415 (i)(3)(B) and 29 U.S.C. Section 794 et seq.
4. Any and all other costs and expenses, of whatsoever nature, incurred by _____ regarding the filing of the due process petition against the Board or any private educational expenses associated with this matter not specifically addressed herein, are and shall remain the sole responsibility of the Petitioner. The foregoing shall constitute the full and complete settlement regarding any and all claims of whatever nature the Petitioner has or may have against the Board through the date on which the Board approves the Settlement Agreement reached by the parties in this matter.
5. The Board has no obligation to provide compensatory educational or related services to _____ for the 2017-2018, 2018-2019, or 2019-2020 school years or for any and all prior school years.
6. This Settlement Agreement is made without any admissions of liability or responsibility or wrongdoing by any party hereto, including by the parties' heirs, executors, administrators, successors, assigns, and agents and shall not be construed as an admission by the Respondent that it did not offer _____ a FAPE in the LRE for the 2017-2018, 2018-2019, and 2019-2020 school years or for any and all prior school years.
7. In exchange for the covenants and conditions contained herein, and as a material part of this Agreement, the parties specifically release and waive all rights and claims of whatsoever nature relating to _____ education or this proceeding, including but not limited to, any claim for reimbursement for educational services unilaterally provided to date, reimbursement of any and all incurred attorneys' fees and costs and the receipt of educational services for _____ from the Brick Township School District, for the effective dates of this Agreement.

8. This Settlement Agreement shall be governed by the Laws of the State of New Jersey.
9. This Settlement Agreement represents the entire Agreement between the parties and will not be modified in whole or in part except by a mutual subsequent written and signed Agreement.
10. It is acknowledged that this Settlement Agreement has been entered into freely, willingly and voluntarily, without duress or coercion, and with the opportunity to consult with counsel of each party's choosing and option. The Petitioner did consult with Catherine Merino Reisman, Esq. of Reisman Carolla Gran & Zuba LLP and Respondent did consult with Paul C. Kalac, Esq., of Weiner Law Group, LLP.
11. The parties acknowledge that they were represented by competent counsel, and the parties acknowledge that they are satisfied with the representation of their counsel. It is further acknowledged that they understood the contents of this Settlement Agreement and that each party hereto will be responsible for bearing any and all costs related to this matter and for their own attorneys' fees and costs, as well as, any other costs pursuant to 20 U.S.C.A. §1415 or any other Federal or State Statutes. It is further agreed that neither party is considered a "prevailing party," as that term is defined under prevailing special education law for any purposes.
12. This Settlement Agreement is subject to approval by the Brick Township Board of Education. Upon full execution and approval by the Board, the herein Settlement Agreement shall be submitted to the New Jersey Office of Administrative Law's Trenton vicinage for approval and incorporation into a Final Decision and Order by ALJ Rabin. This Settlement Agreement shall be recommended for approval at the March 19, 2020 Board meeting (after Petitioner has executed the agreement and returned same to the Board).
13. Petitioner waives all requests for compensatory education and related services for the 2017-2018 and 2018-2019 school year that have been made to date and hereby withdraws his July 26, 2019, Petition for Mediation (converted to Due Process Petition on September 9, 2019) with prejudice for 2017-2018 and 2018-2019 school years and for any and all prior school years. Petitioner also withdraws with prejudice the October 4, 2019 application for emergent relief and waives all requests for compensatory education and related services, and related tuition payments for the 2019-2020 school year that has been made to date.

IN WITNESS WHEREOF, the parties have signed this Settlement Agreement or caused their representatives to sign this Settlement Agreement on the dates set forth below.

PETITIONER

Date: 3-11-2020

[Signature]

BRICK TOWNSHIP BOARD OF EDUCATION

Date: _____

Stephanie Wohlrab, President
Brick Township Board of Education

Date: _____

James W. Edwards, Jr., CPA, Business
Administrator/Board Secretary
Brick Township Board of Education

Commonwealth of Pennsylvania
County of Bucks

I CERTIFY, that on March 11, 2020 _____

personally came

before me and acknowledged under oath, to my satisfaction, that is person:

- (a) Is named in and personally signed this document; and
- (b) Signed sealed and delivered this document as his act and deed.

Lorraine Kittner

Attorney or Notary Public

Commonwealth of Pennsylvania - Notary Seal
Lorraine F. Kittner, Notary Public
Bucks County
My commission expires December 12, 2021
Commission number 1086137
Member, Pennsylvania Association of Notaries

