

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This **SETTLEMENT AND RELEASE AGREEMENT** ("Agreement") is made and entered into by and between _____ 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 for the 2019/2020 school year; and

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

WHEREAS _____ currently resides in a group home facility operated under the auspices of Elwyn, New Jersey and attends the Bancroft Neurohealth School; and

WHEREAS, _____ special education and related services for the 2019/2020 are set forth in an Individualized Education Plan ("IEP") extending from October 23, 2019, through June 30, 2020; and

WHEREAS, _____ IEP provides that he will receive transportation services to and from school, with the assistance of a bus attendant; and

WHEREAS, a dispute arose regarding the adequacy of the transportation services provided to _____ and

WHEREAS, Petitioners subsequently filed a Petition for Due Process contesting the transportation services, which Petition was docketed before the Department of Education as Agency Ref. No.: 2020-31099 and the Office of Administrative Law as EDS-00338-2020S; 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 transportation services for _____ for the 2019/2020 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. In lieu of providing transportation services to _____ the Board agrees to pay Petitioners the total sum of thirty-six thousand, five-hundred nineteen dollars (\$36,519.00) to Petitioners as contribution towards Petitioners' procurement of private transportation for _____ or the period extending from January 1, 2020 through June 30, 2020. The sums set forth in this agreement, equate to three hundred twenty-nine dollars (\$329.00) per day for one hundred eleven (111) school days. All sums due and owing under this Agreement shall be paid to Petitioners within thirty (30) days of the Board's approval of this Agreement, utilizing the Board's standard voucher system.
- B. Petitioners understand and agree that they are solely responsible for providing _____ with transportation services to/from Bancroft from January 1, 2020, through June 30, 2020, and that the Board shall have no involvement in the selection of a transportation provider and otherwise be responsible for providing _____ with transportation services during the operative period of this Agreement.
- C. The Parties agree that within fifteen (15) days of approval of this Agreement by the Administrative Law Judge, the Board shall amend _____ IEP, without a meeting, to remove transportation as a related service from _____ IEP.
- D. The parties expressly understand and agree that the Board's Agreement to contribute towards Petitioners' attainment of private transportation services as services set forth in this Agreement in no way whatsoever reflects that the Board agrees or acknowledges that it failed to arrange and/or provide appropriate transportation services for _____ for the 2019/2020 school year. Rather, this Agreement is made for the sole purpose of avoiding the uncertainties and expense associated with litigation.
- E. **COSTS AND FEES.** Each party shall each bear its own costs, expenses, attorney's fees, and any other costs pursuant to 20 U.S.C. §1415 or any other federal or state statute. It is further agreed that neither party shall be considered a "prevailing party" for any purpose.
- F. **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 the claims raised in the Petition for Due Process, docketed before the Department of Education as Agency Ref. No.: 2020-31099 and the Office of Administrative Law as EDS-00338-2020S, 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 transportation services as set forth in his current IEP.
 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, other than claims related to the provision of special education and related services, 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 affect their decision to enter into this Settlement Agreement and General Release.

- G. 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 [redacted] within two years of execution of this Agreement, arising out of or in any way related to the claims set forth in the Petition for Due Process docketed before the Department of Education as Agency Ref. No.: 2020-31099 and the Office of Administrative Law as EDS-00338-2020S.
- H. 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.
- I. 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 [redacted], 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 [redacted] 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.
- J. CONFIDENTIALITY.** The terms of this Agreement and the Agreement itself 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.
- K. 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.

- L. **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 :
- M. **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.
- N. **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.
- O. **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.
- P. **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.
- Q. **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.
- R. **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.
- S. The parties acknowledge and agree that this Settlement Agreement and Release is subject to approval by the Brick Township Board of Education.
- T. 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., C.P.A.
Business Administrator/Board Secretary

Date: _____

By: _____

Date: 3-6-20

By: _____

Date: 3-6-20