

October 3, 2012

**Certified Mail – RRR**

Mr. John Golden  
Superintendent  
Black Horse Pike Regional School District  
580 Erial Road  
Blackwood, NJ 08012

Dear Mr. Golden:

You may recall that the Department of Education many years ago audited Archway Programs' Private School for the Handicapped and determined there were overcharges on the tuition charged to sending districts for the school years 1994-95 through 1998-99.

Archway felt many of the DOE charges were wrong and appealed them. But it also agreed that many were correct and it took immediate action back then to transform itself to prevent any continuing improper practices. Indeed, since 1998, when the DOE first notified Archway of the problems, Archway has corrected every issue and its audits since then have been problem-free.

As amazing as it must seem, the appeal process is still going on almost 14 years after it began. And in fact, Archway's challenge finally got the DOE to stipulate that the Department misapplied its own audit and financial regulations properly in some very big areas.

The Doe audits claimed almost \$9 Million in disallowed expenses from the years between 1994-1995 and 1998-1999. Archway admitted about \$5.4 million. The trials and contested hearings have been ongoing over the difference and there have been decisions both favorable and unfavorable to Archway. Currently, the decisions of the Administrative Law Judge, if upheld, would result in 8,169,639.91 in refunds. We await a final decision of the Commissioner of Education and most likely an appeal of that decision to the Appellate Division of the Superior Court.

Throughout the whole process of appeals, it has been our overriding goal to try to resolve all of these issues through a settlement fair to all affected districts. You may question that motivation given the fact that Archway has been contesting these cases for so long. The main reason for that is the fact that Archway is a not-for-profit organization with few resources beyond its statutorily permitted cash flow from tuition. Quite frankly, any figure beyond our ability to pay would most likely lead to bankruptcy with each District receiving only pennies on the dollar in liquidation.

280 Jackson Road P.O. Box 668 Atco, NJ 08004-0668  
Phone 856-767-5757 Fax 856-753-5882 Website [www.archwayprograms.org](http://www.archwayprograms.org)  
e-mail [dan.martin@archwayprograms.org](mailto:dan.martin@archwayprograms.org)

Indeed, back in 2003 we tried to settle directly with the districts for a total of \$1.7 million. There are 106 districts affected. 67 districts accepted the settlement offer; 23 rejected it and 16 never responded. The DOE said we could only settle if 100% of the districts agreed.

Your Board of Education approved the settlement at that time. The final documents in this packet include a copy of your resolution/acceptance letter from 2003.

Before the current process moves from the administrative stage to the courts, we think it is time to try settlement again. Contingent on approvals by the State, we now have the ability to offer a total of \$3,000,000 for settlement. Each district would receive a pro rata portion of that amount based on its share of students sent and tuition paid for the years in question. We have included with this letter a breakdown of the pro rata calculation. Your district's reimbursement would be \$56,602.24.

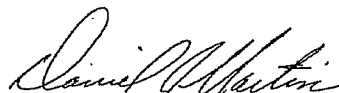
This amounts to a 37% payback (compared to the 19% in the prior offer). Each District will receive the same percentage refund. We sincerely ask that you consider this proposal because the final outcome of the audit appeal will have no impact on our ability to compensate districts for past losses. In other words, whether the final DOE appeal results in more or less reimbursements will not change what we can afford to pay. And if the appeal process continues, the funding sources for the \$3 million will be lost.

It is important for you to know we are solvent and that our programs will continue without interruption. However, we have nothing else to offer in settlement since all remaining assets are pledged to the bank. If we cannot reach a settlement agreeable to all districts, we will be forced to continue with the appeal process -- leading to more delay in your district recovering any refund, if at all. Frankly, our Board could have closed Archway back in 1998 when these issues were discovered. Instead, we continued providing quality services, immediately cut over \$1 Million in expenses, closed some programs and reduced tuition twice. We believe strongly in our mission and want to put these issues behind us. At this point, we believe it is in everyone's interest to settle and end this saga.

We would be happy to discuss this further with you or clarify any issues for you. If you are agreeable to this proposition, please take the appropriate formal action in the next 60 days to approve it and return the proposed form of agreement enclosed with this letter. If the settlement is approved we can move forward with State approvals so that you will receive your refunds in the next fiscal year. As always, we welcome you to come observe our programs and facilities or to meet personally to discuss this proposal.

We thank you for your Board's consideration of this offer to settle. Beyond that, we can only offer our sincerest apology for the negative impact of the leadership years ago and reassure you that Archway today is ethical, professional and credible.

Very truly yours,



Daniel Martin, Ed.D.  
Chief Executive Officer

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cc: Dr. Joyce W. Ellis, School Board President  
Mrs. Dorothy Grubb, District Business Administrator  
John D Wade, Esq, School District Solicitor

Attachment A - Re-imbursement Calculation for your District  
Attachment B - Pro Rata Calculation for all Districts  
Attachment C - Agreement to Accept Settlement  
Attachment D - Previous Agreement and Documentation

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**Archway Programs**  
**DOE Audit 1994-99 Settlement Proposal Details**  
**October 1, 2012**

Information on proposed Agreement with: Black Horse Pike Reg School District.

DOE Re-imbursement Summary Per Administrative Law Initial Decisions

| <u>1994-1995</u> | <u>1995-1996</u> | <u>1996-1997</u> | <u>1997-1998</u> | <u>1998-1999</u> | <u>Total</u> |
|------------------|------------------|------------------|------------------|------------------|--------------|
| \$42,505.49      | \$25,597.53      | \$40,858.56      | \$30,776.35      | \$14,402.03      | \$154,139.96 |

Actual Pro-Rata Re-imbursement Based on total \$3.0 Million Settlement

|              |   |                                 |   |             |
|--------------|---|---------------------------------|---|-------------|
| \$3,000,000. | = | 37% x your total (\$154,139.96) | = | \$56,602.24 |
| \$8,169,640  |   |                                 |   |             |

# ATTACHMENT B

## -Archway Tuition Refund Owed Districts for 1994-99 per Judge's Partial Initial Decisions

| DISTRICT             | 94-99 Total        | % of Total        | \$3.0 mil Offer        |
|----------------------|--------------------|-------------------|------------------------|
| Audubon              | 5,621.40           | 0.0006880842      | \$2,064.25             |
| Barrington           | 78,444.47          | 0.0096019495      | \$28,805.85            |
| Bellmawr Boro        | 15,939.27          | 0.0019510370      | \$5,853.11             |
| Berlin Boro          | 5,335.18           | 0.0006530496      | \$1,959.15             |
| Berlin Township      | 66,270.76          | 0.0081118337      | \$24,335.50            |
| Beverly City         | 24,037.63          | 0.0029423121      | \$8,826.94             |
| Black Horse Pike Reg | 154,139.96         | 0.0188674117      | \$56,602.24            |
| Bordentown Regional  | 895.90             | 0.0001096621      | \$328.99               |
| Bridgeton            | 8,862.95           | 0.0010848642      | \$3,254.59             |
| Brooklawn            | 67.62              | 0.0000082770      | \$24.83                |
| Buena                | 5,490.89           | 0.0006721092      | \$2,016.33             |
| Burlington Township  | 4,622.26           | 0.0005657850      | \$1,697.36             |
| Camden               | 1,334,853.47       | 0.1633919591      | \$490,175.88           |
| Cherry Hill          | 70,921.55          | 0.0086811109      | \$26,043.33            |
| Chesilhurst          | 71,301.21          | 0.0087275830      | \$26,182.75            |
| Cinnaminson          | 30,163.82          | 0.0036921848      | \$11,076.55            |
| Clayton              | 62,728.95          | 0.0076783005      | \$23,034.90            |
| Clearview Regional   | 6,128.34           | 0.0007501359      | \$2,250.41             |
| Clementon            | 43,991.26          | 0.0053847245      | \$16,154.17            |
| Collingswood         | 60,881.30          | 0.0074521400      | \$22,356.42            |
| Cumberland Regional  | 17,617.21          | 0.0021564243      | \$6,469.27             |
| Deerfield Township   | 31,875.37          | 0.0039016860      | \$11,705.06            |
| Delran               | 12,251.18          | 0.0014995985      | \$4,498.80             |
| Delsea Regional      | 15,078.34          | 0.0018456554      | \$5,536.97             |
| Deptford Township    | 76,752.41          | 0.0093948339      | \$28,184.50            |
| DYFS                 | 350,455.45         | 0.0428972946      | \$128,691.88           |
| E. Windsor Regional  | 29,311.24          | 0.0035878252      | \$10,763.48            |
| Eastern Regional     | 86,738.11          | 0.0106171277      | \$31,851.38            |
| Egg Harbor Township  | 82,932.88          | 0.0101513507      | \$30,454.05            |
| Elizabeth            | 32,782.35          | 0.0040127044      | \$12,038.11            |
| Elk Township         | 25,864.18          | 0.0031658898      | \$9,497.67             |
| Estelle Manor        | 579.36             | 0.0000709162      | \$212.75               |
| Evesham Township     | 144,447.06         | 0.0176809580      | \$53,042.87            |
| Ewing                | 64,268.81          | 0.0078667861      | \$23,600.36            |
| <b>DISTRICT</b>      | <b>94-99 Total</b> | <b>% of Total</b> | <b>\$3.0 mil Offer</b> |

**Columns '94-'99** represent the totals owed each district based on actual attendance for each of the years based on the judge's partial decision 2/17/11 and 12/21/11; representing a total of \$8,169,639.91 compared with the original \$8,882,613.

**Column % OF TOTAL** is the percent to the total that each district is owed based on their attendance during those years.

**Column \$3.0 mil Offer** is the amount each district would get if the total settlement is \$3,000,000 on the total of \$8,169,639.91 determined by the judge as outstanding. (37% offer)

**Note:** Distribution of former Lower Camden County Regional refunds are allocated to the constituent districts based on the number of days attended and the number of students.

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## -Archway Tuition Refund Owed Districts for 1994-99 per Judge's Partial Initial Decisions

|                       |            |               |              |
|-----------------------|------------|---------------|--------------|
| Fairfield Township    | 6,958.40   | 0.0008517389  | \$2,555.22   |
| Florence              | 7,068.33   | 0.0008651948  | \$2,595.58   |
| Folsom                | -61.00     | -0.0000074667 | -\$22.40     |
| Franklin Township     | 3,122.09   | 0.0003821576  | \$1,146.47   |
| Franklin Township-Glo | 23,483.50  | 0.0028744841  | \$8,623.45   |
| Galloway Township     | 17,026.35  | 0.0020841004  | \$6,252.30   |
| Gateway Regional      | 40,729.75  | 0.0049855013  | \$14,956.50  |
| Gibbsboro             | 6,493.61   | 0.0007948465  | \$2,384.54   |
| Gloucester City       | 79,041.55  | 0.0096750347  | \$29,025.10  |
| Gloucester Township   | 144,024.96 | 0.0176292911  | \$52,887.87  |
| Greater Egg Harbor    | 455,325.52 | 0.0557338542  | \$167,201.56 |
| Greenwich Township    | 20,999.04  | 0.0025703752  | \$7,711.13   |
| Haddon Heights        | 8,173.82   | 0.0010005117  | \$3,001.53   |
| Haddon Township       | 64,647.01  | 0.0079130795  | \$23,739.24  |
| Hainesport            | 70,848.27  | 0.0086721411  | \$26,016.42  |
| Hamilton Township     | 6,958.40   | 0.0008517389  | \$2,555.22   |
| Hillville             | 133,870.01 | 0.0163862804  | \$49,158.84  |
| Hopewell Township     | 3,703.24   | 0.0004532929  | \$1,359.88   |
| Kingsway Regional     | 26,214.01  | 0.0032087106  | \$9,626.13   |
| Lakewood              | 32,916.43  | 0.0040291164  | \$12,087.35  |
| Laurel Springs        | 2,684.42   | 0.0003285849  | \$985.75     |
| Lawnside              | 21,029.51  | 0.0025741049  | \$7,722.31   |
| Lower Camden Co Reg   | 90,901.41  | 0.0111267340  | \$33,380.20  |
| Lenape Regional       | 0.00       | 0.0000000000  | \$0.00       |
| Lindenwald            | 51,146.45  | 0.0062605513  | \$18,781.65  |
| Little Egg Harbor     | 233,855.83 | 0.0286249862  | \$85,874.96  |
| Logan Township        | 6,958.40   | 0.0008517389  | \$2,555.22   |
| Long Beach Island     | 770.49     | 0.0000943114  | \$282.93     |
| Lumberton             | 764.51     | 0.0000935794  | \$280.74     |
| Magnolia School       | 4,121.11   | 0.0005044421  | \$1,513.33   |
| Mantua                | 99,534.64  | 0.0121834795  | \$36,550.44  |
| Maple Shade           | 1,077.25   | 0.0001318602  | \$395.58     |
| Medford Township      | 16,661.60  | 0.0020394534  | \$6,118.36   |
| Merchantville         | 13,808.21  | 0.0016901859  | \$5,070.56   |
| Monroe Township       | 56,318.52  | 0.0068936355  | \$20,680.91  |
| Moorestown            | 487,217.86 | 0.0596376175  | \$178,912.85 |
| Mount Holly           | 27,149.91  | 0.0033232689  | \$9,969.81   |
| Mount Ephraim         | 9,935.15   | 0.0012161062  | \$3,648.32   |
|                       | 4,097.67   | 0.0005015729  | \$1,504.72   |

# ATTACHMENT B

-Archway Tuition Refund Owed Districts for 1994-99 per Judge's Partial Initial Decisions

| DISTRICT            | 1994-99 Total | % of total   | \$310 million offer |
|---------------------|---------------|--------------|---------------------|
| Mount Laurel        | 23,229.70     | 0.0028434179 | \$8,530.25          |
| National Park       | 37,272.52     | 0.0045623210 | \$13,686.96         |
| Oaklyn              | 15,234.65     | 0.0018647884 | \$5,594.37          |
| Palmyra             | 14,976.71     | 0.0018332154 | \$5,499.65          |
| Paulsboro           | 18,974.56     | 0.0023225699 | \$6,967.71          |
| Pemberton Township  | 427,816.63    | 0.0523666446 | \$157,099.93        |
| Pennsauken          | 314,851.04    | 0.0385391576 | \$115,617.47        |
| Penns Grove         | 16,991.63     | 0.0020798505 | \$6,239.55          |
| Pennsbury           | 2,737.54      | 0.0003350870 | \$1,005.26          |
| Pine Hill           | 91,961.68     | 0.0112565157 | \$33,769.55         |
| Pinelands Regional  | 29,910.67     | 0.0036611981 | \$10,983.59         |
| Pittsgrove Township | 30,277.15     | 0.0037060569 | \$11,118.17         |
| Rancocas Valley     | 7,166.92      | 0.0008772627 | \$2,631.79          |
| Runnemede           | 15,025.16     | 0.0018391459 | \$5,517.44          |
| Somerdale           | 4,976.07      | 0.0006090929 | \$1,827.28          |
| Southern Regional   | 39,316.72     | 0.0048125401 | \$14,437.62         |
| Sterling High       | 28,479.19     | 0.0034859786 | \$10,457.94         |
| Stratford Borough   | 58,080.54     | 0.0071093146 | \$21,327.94         |
| Swedesboro          | 5,031.80      | 0.0006159145 | \$1,847.74          |
| Tabernacle          | 34,206.73     | 0.0041870548 | \$12,561.16         |
| Toms River          | 47,278.99     | 0.0057871571 | \$17,361.47         |
| Trenton             | 752,084.47    | 0.0920584601 | \$276,175.38        |
| Vineland City       | 28,386.22     | 0.0034745987 | \$10,423.80         |
| Voorhees            | 110,288.43    | 0.0134997908 | \$40,499.37         |
| Washington Township | 88,255.90     | 0.0108029119 | \$32,408.74         |
| Waterford Township  | 97,897.90     | 0.0119831353 | \$35,949.41         |
| West Deptford       | 48,232.30     | 0.0059038465 | \$17,711.54         |
| West Windsor        | 5,141.40      | 0.0006293301 | \$1,887.99          |
| Westampton          | 2,551.22      | 0.0003122806 | \$936.84            |
| Westville           | 16,666.72     | 0.0020400801 | \$6,120.24          |
| Willingboro         | 153,998.98    | 0.0188501552 | \$56,550.47         |
| Winslow Township    | 245,172.95    | 0.0300102517 | \$90,030.76         |
| Woodbury            | 15,154.14     | 0.0018549337 | \$5,564.80          |
| Woodlyne            | 40,784.23     | 0.0049921698 | \$14,976.51         |
| Total               | 8,169,639.83  | 0.9999999902 | \$2,999,999.97      |

AGREEMENT BETWEEN  
ARCHWAY PROGRAMS, INC.  
and  
Black Horse Pike Reg SCHOOL DISTRICT

**WHEREAS**, Black Horse Pike Reg School District ("District"), during the school years 1994 through 1999, sent students to Archway Programs, Inc. ("Archway") and paid tuition for such students pursuant to contract and NJ Department of Education ("DOE") regulations; and

**WHEREAS**, the DOE has audited Archway's allowable expenses for such years and determined that Archway improperly allocated certain expenses to its public school program resulting in excess tuition charges; and

**WHEREAS**, the DOE has directed Archway to reimburse tuition charges to each affected district and Archway has appealed those determinations; and

**WHEREAS**, the District and Archway are desirous of resolving the tuition reimbursement issues expeditiously without the further delays and uncertainties inherent in the appeal process; and

**WHEREAS**, the District recognizes Archway's non-profit status and the likelihood that closure of Archway would result in no reimbursement as well as the dislocation of students currently served by Archway.

**NOW, THEREFORE**, in settlement of all claims that exist or may exist between Archway and the District for the fiscal years 1994-1995 through and including 1998-1999, the parties do hereby agree as follows:

1. Archway agrees to refund, in the manner prescribed herein, the sum of \$56,602.24 ("Reimbursement") to the District and the District agrees to accept said amount in the manner described herein.
2. The funds to pay all the settlements to all the districts are being provided by outside sources. All settlements are contingent on the approval by the NJ DOE and other State Agencies of the funding sources and related matters connected thereto and payment will be made after such approvals are issued.
3. The District is not, by virtue of this Agreement, required at any time to enroll students at Archway, nor is Archway required to accept students from the District.
4. By entering into this Agreement, the District hereby releases Archway and waives any claims it may otherwise have against Archway with respect to tuition or tuition reimbursements for the fiscal years 1994-1995 through and including 1998-1999.



5. This Agreement is not intended to and shall not impact the determination of initial or tentative annual tuition charges or to adjustments thereto and final tuition charges, as set pursuant to DOE Regulations for any year other than the years covered by the DOE Audits referenced herein.

6. This Agreement was duly approved and adopted by the Black Horse Pike Reg School District and has been similarly approved and adopted by the Board of Directors of Archway and is binding on each, its successors and assigns.

7. This Agreement may be signed in counterparts and if so executed is equally binding as if all signatures appeared in one document.

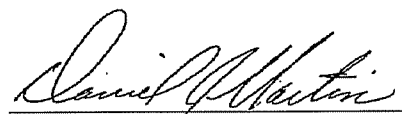
Date: \_\_\_\_\_

School District

\_\_\_\_\_  
(Name)

Superintendent, Black Horse Pike Reg

Date: October 1, 2012



Daniel J. Martin, CEO

Archway Programs, Inc.

# 2003 Settlement Offer

## ATTACHMENT D

### 1. Summary of Audit Findings

| <u>Fiscal Year</u> | <u>Total Refund<br/>Amount Per<br/>DOE (rounded)</u> | <u>Status</u>   |
|--------------------|--|---|
| 1994-1995          | \$2,300,000.   | On Appeal/Corrective Action Plan<br>Completed & Filed |
| 1995-1996          | \$2,100,000.   | On Appeal/Corrective Action Plan<br>Completed & Filed |
| 1996-1997          | \$1,700,000.   | On Appeal/Corrective Action Plan<br>Completed & Filed |
| 1997-1998          | \$1,700,000.   | On Appeal/Corrective Action Plan<br>Completed & Filed |
| 1998-1999          | <u>\$1,200,000.</u>                                  | On Appeal/Corrective Action Plan<br>Completed & Filed |
| TOTAL:             | <u>\$8,900,000.</u>                                  |   |

Note: All Corrective Actions have been completed to avoid future re-occurrences. If Administrative Appeals are conducted, it is likely to take a few more years to finalize. Under DOE rules, Archway would have 30 days following the finalization of all appeals to make full reimbursement. In that event, closure and/or bankruptcy would have to be explored.

### 2. Information on proposed Agreement with Black Horse Pike Regional School District School District.

#### DOE Re-imbursement Summary

| <u>1994-1995</u> | <u>1995-1996</u> | <u>1996-1997</u> | <u>1997-1998</u> | <u>1998-1999</u> | <u>Total</u> |
|------------------|------------------|------------------|------------------|------------------|--------------|
| \$43,281.00      | \$27,838.00      | \$45,832.00      | \$34,121.00      | \$17,986.00      | \$169,058    |

#### Actual Pro-Rata Re-imbursement Based on total \$1.7 Million Settlement

$$\begin{array}{rcl} \$1,700,000. & = & 19\% \times \text{your total } \$169,058 = \\ 8,916.049 & & \$32,355 \end{array}$$

$$\text{Annual Credit} = \$3,236$$

Please Note: While I do not have a signed agreement from BHPRA District, my notes show that Mr. Ralph Ross, new Superintendent gave me a verbal OK on 11/24/03. Perhaps your records reflect this.

*David Manton*