

SETTLEMENT AGREEMENT AND GENERAL RELEASE

<p>█ and █ o/b/o █</p> <p>Petitioners,</p> <p>BLACK HORSE PIKE REGIONAL SCHOOL DISTRICT BOARD OF EDUCATION,</p> <p>Respondent.</p>	<p>STATE OF NEW JERSEY OFFICE OF ADMINISTRATIVE LAW</p> <p>OAL DOCKET NO: EDS 05154-2023S AGENCY REF: 2023-35763</p> <p>SETTLEMENT AGREEMENT AND GENERAL RELEASE</p>
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THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE (hereinafter referred to as the "Agreement") is entered into by and between █ individually and on behalf of their child, █. (hereinafter collectively referred to as "Petitioners") and the Black Horse Pike Regional School District Board of Education (hereinafter referred to as the "Board") to resolve and settle all outstanding claims and disputed education issues as follows:

RECITALS

WHEREAS, █ is currently a student of the Black Horse Pike Regional School District deemed eligible to receive special education and related services; and

WHEREAS, the Board is the local educational authority with the responsibility of providing a free appropriate public education ("FAPE") to █; and

WHEREAS, a disagreement arose between Petitioners and the Board (hereinafter collectively referred to as the "Parties") as to, inter alia, the special education and/or related services provided and/or to be provided to █ and

WHEREAS, Petitioners filed a Petition for Due Process (hereinafter referred to as the "Petition") against the Board, captioned as █ on behalf of █ v. Black Horse Pike Regional School District Board of Education under OAL Docket No. 05154-2023S and Agency Reference No. 2023-35763, which is pending in the Office of Administrative Law; and

WHEREAS, on or about July 12, 2023, the Parties engaged in thorough and extensive discussion and negotiations regarding their disagreement in a settlement conference with the Honorable Kathleen M. Calemno, A.L.J.; and

WHEREAS, on or about July 18, 2023, the Parties engaged in further thorough and extensive discussion and negotiations regarding their disagreement; and

WHEREAS, the Parties, after the opportunity for consultation with and between their respective legal counsel and following said discussion and negotiations, desire to fully, efficiently, and amicably resolve all aspects of their dispute and to memorialize the further relation between the Parties by entering into this Agreement so as to avoid the uncertainty,

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expenditure of time and resources, and the incurring of costs and expenses associated with further proceedings and/or litigation; and

WHEREAS, neither of the Parties admits or acknowledges, either explicitly or implicitly, any misconduct, wrongdoing, and/or liability, but through and by this Agreement are taking this action solely as a matter of a business judgment and at the recommendation of their respective legal counsel; and

WHEREAS, the Parties, in view of the above recitals and in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, enter into this Agreement to outline their agreement, release claims, and express the full and complete terms of same; NOW, THEREFORE, THE PARTIES HEREBY AGREE:

1. Y.A.L.E. School Cherry Hill Standard 9 Program: The Parties understand and agree that, in consideration of and in exchange for Petitioners voluntarily withdrawing the pending Petition, the Board shall pay the cost of tuition only for [REDACTED] to attend the Y.A.L.E. School Cherry Hill Standard 9 Program (hereinafter referred to as the "Standard 9 Program") for the 2023-2024 school year, not including extended school year, and the 2024-2025 school year, not including extended school year (hereinafter collectively referred to as the "Agreement Period"). It is understood that the Standard 9 Program has two tiers: vocational or explorational, and it is agreed that [REDACTED] may participate in either tier without input from the District.
 - A. Transportation: The Parties further understand and agree that the Board will not pay for transportation and is not obligated to arrange, schedule, direct and/or otherwise be responsible in any manner for transportation of [REDACTED] to and/or from the Standard 9 Program, and that Petitioners shall be responsible for [REDACTED] transportation to and/or from the Standard 9 Program. Y.A.L.E. provides transportation from Camden County College to the Co-Op Program located at Y.A.L.E. Cherry Hill as a part of the Standard 9 Program; the cost is included in tuition. This transportation will be provided to [REDACTED], as it is part of the Y.A.L.E. Standard 9 Program and is not excluded by this Agreement.
 - B. Related and Supplementary Services, Other: The Parties further understand and agree that the Board will not pay for and is not obligated to arrange, schedule, direct and/or otherwise be responsible in any manner for related services of any kind for [REDACTED], and/or supplementary services of any kind for [REDACTED] during the Agreement Period. The Parties further understand and agree that the Board's only obligation (financial and/or otherwise) to Petitioners, whether individually, jointly, and/or on behalf of [REDACTED], is to pay the cost of [REDACTED] attending the Standard 9 Program and that the Board's obligation does not include payment, implementation, and/or provision of any transportation, related services, supplementary services, and/or any other program, placement, service, event, activity, and/or item of any kind which is not specifically set forth herein, during the Agreement Period.

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Payment by the Board for ■■■ to attend the Standard 9 Program is made as part of the settlement of this matter and shall not be deemed or considered, either explicitly or implicitly, as an acknowledgment, adoption, recommendation, and/or agreement by the Board that such attendance is FAPE for ■■■.

2. Attendance: The Petitioners understand and agree that, notwithstanding the payment provision set forth above, the Board shall not pay and will not be obligated to pay for ■■■ to attend the Standard 9 Program for the 2024-2025 school year should ■■■ have a cumulative total of fifteen (15) days of unexcused absences from the Standard 9 Program during the 2023 2024 school year. The Petitioners further understand and agree that, notwithstanding the payment provision set forth above, the Board shall not pay and will not be obligated to pay for ■■■ to attend the Standard 9 Program if ■■■ is disenrolled, withdrawn, fails to enroll, and/or "drops out" of the Standard 9 Program during the Agreement Period. The Petitioners further understand and agree that Petitioners shall notify the Board, in writing, within five (5) days of any of these events. Excused absences shall be defined in the Board's Attendance Policy No. 5200 and shall not be counted towards the total.
3. Board Responsibility: The Parties understand and agree that, during the Agreement Period, the Board shall prepare an Individualized Education Program (IEP) solely for the purpose of placing ■■■ at the Standard 9 Program, which shall note that any goals and objectives for the IEP shall be developed by Petitioners and the Standard 9 Program. Petitioners, by their signatures below, grant consent to the Board to prepare and send such IEPs without need for a further meeting. Nothing in this Agreement shall preclude Petitioners meeting with personnel from the Standard 9 Program regarding the special education and/or related services to be provided to ■■■ during the Agreement Period; however, Petitioners further understand and agree that the actual provision and/or implementation of any such special education and/or related services to ■■■ during the Agreement Period shall be solely the responsibility of Petitioners and/or the Standard 9 Program, and that the Board shall in no way be responsible, and shall have no obligation, financial and/or otherwise, to implement and/or provide a free appropriate public education, special education, and/or related services, including but not limited to compensatory education/services, occupational and/or physical therapy, speech/language services, counseling, transition services, and/or transportation, to ■■■ during the Agreement Period. Petitioners understand and agree that the Board shall in no way be responsible and shall have no obligation to otherwise prepare, administer, case manage, evaluate, assess, monitor, meet regarding and/or implement an Individualized Education Plan (IEP) and/or a program of special education and/or related services for and/or to provide ■■■ with a free appropriate public education, special education, and/or related services, including but not limited to compensatory education/services, occupational and/or physical therapy, speech/language services, counseling, and/or transportation during the Agreement Period, other than as specifically

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set forth in this Agreement. Petitioners acknowledge and understand that the Board has no control over the program, the staff, or the provision of special education and/or related services at the Standard 9 Program, and therefore Petitioners, individually, jointly, and/or on behalf of ■■■■, hereby agree to generally release and forever hold harmless the Board, its members, officers, employees, administrators, agents, servants, and assigns, including the cost of defense counsel, for any liability of any kind for any losses, including, but not limited to, any personal injuries, damages, emotional distress or property destruction which may be suffered by ■■■■ while attending the Standard 9 Program whether within or outside of the Agreement Period. At the conclusion of the Agreement Period, or sooner if the student does not attend the Standard 9 Program as set forth in Paragraph 2, ■■■■ shall be deemed and considered to be graduated and a Black Horse Pike Regional High School District diploma shall be issued. In no event or circumstances shall the Standard 9 Program be deemed and/or considered as the stay-put placement for ■■■■ beyond the Agreement Period. Petitioners further understand and agree that, upon the conclusion of the Agreement Period, the Board will not have any further obligation, financial, academic, and/or in any other way, to prepare, administer, case manage, evaluate, assess, monitor, meet regarding and/or implement an Individualized Education Plan (IEP) and/or a program of special education and/or related services for and/or to provide ■■■■ with a free appropriate public education, special education, and/or related services, including but not limited to compensatory education/services, occupational and/or physical therapy, speech/language services, counseling, transition services, and/or transportation, regardless of whether ■■■■ has graduated and/or completed the Standard 9 Program and/or is within the age limit for eligibility for special education and/or related services.

4. **Prevailing Parties and Attorney's Fees:** The Parties understand and agree that neither Petitioners, individually, jointly, and/or on behalf of ■■■■ nor the Board shall be deemed or considered, either explicitly or implicitly, to be a prevailing party and/or entitled to any counsel and/or expert fees or costs and/or other expenses related to litigating the issues raised in the Petition, other than as specifically set forth in this Agreement. Neither Party will be considered to be a "prevailing party" in this matter for any purpose, and each Party shall be responsible, except as specifically set forth in this Agreement, for payment of their own attorney's fees, expert costs, and any other costs and/or expenses incurred in connection with this matter and/or with the development of this Agreement.
5. **Withdrawal of Petition:** As and in consideration for this Agreement, Petitioners understand and agree that this Agreement will be submitted to the Court for its approval, submitted by counsel within five (5) days of receipt of the fully executed Agreement.
6. **Board Approval:** Petitioners understand and agree that this Agreement is subject to approval by the Board at its next regularly scheduled meeting following the execution of this Agreement by Petitioners. If so approved, a fully executed copy of this Agreement and

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accompanying Board resolution shall be provided to the Court and Petitioners within ten (10) calendar days of such approval.

7. Waiver and General Release: It is the specific intent of the Parties that this Agreement shall constitute the final and full resolution of their dispute. Petitioners understand and agree that the Board shall not be considered or determined to have denied [REDACTED], a free appropriate public education, special education, and/or related services, including but not limited to compensatory education/services, occupational and/or physical therapy, speech/language services, counseling, and/or transportation, nor shall the Board be considered or determined to have discriminated or otherwise acted or failed to act in any wrongful manner towards to Petitioners, either individually or jointly. Petitioners further understand and agree that the Board does not bear any obligation or responsibility to provide [REDACTED] with any further educational and/or other benefit of any kind except as specifically set forth in this Agreement. As such, Petitioners, individually and on behalf of [REDACTED], hereby forever and fully waive and release the Board from any and all claims that have accrued as of the date of this Agreement which any of the Petitioners, either individually or jointly, have, had, and/or may have against the Board related to the free appropriate public education, special education, and/or related services, including but not limited to compensatory education/services, occupational and/or physical therapy, speech/language services, counseling, and/or transportation which were provided and/or offered by the Board to [REDACTED], including any and all legal, contractual, common law, statutory and/or equitable claims under state and/or federal law through the date of this Agreement, including but not limited to claims for and/or under:
- a. Individuals with Disabilities in Education Improvement Act, 20 U.S.C. 51415 et seq. and/or its implementing regulations;
 - b. N.J.S.A. 18A:46-1, etseq. and/or N.J.A.C. 6A:14-1.1, u seq.;
 - c. compensatory education, "stay put" placement, and/or reimbursement related to any unilateral and/or out-of-district placement whether known or unknown;
 - d. \$3434 (also known as "P.L.2021, c. 109");
 - e. \$905 (also known as "P.L.2022, c.2");
 - f. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 5701 et seq.;
 - g. Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 et seq.;
 - h. Family Education Rights and Privacy Act, 20 U.S.C. 51232g et seq.;
 - i. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 52000 et seq.;
 - j. The Rehabilitation Act of 1973, as amended, 20 U.S.C. 57801 u seq.;
 - k. 29 U.S.C. 57946);
 - l. 42 U.S.C. 51983;
 - m. 42 U.S.C. 51988;
 - n. New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 etseq.;
 - o. New Jersey Civil Rights Act N.J.S.A. 10:6-1 etseq.;

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- p. tuition, fees, costs, and/or transportation to and/or from any school which [REDACTED] attends;
- q. compensatory, economic, and/or punitive damages;
- r. attorney's fees, expert's fees, and/or other fees; and
- s. any federal, state, or local laws or causes of action arising from and/or related to the claims asserted in the Petition for Due Process.

Nothing set forth in this provision shall be construed as a release or waiver of any claims between the Parties seeking to enforce any term or provision of this Agreement.

8. Indemnification: Petitioners, individually and jointly, agree to indemnify and hold harmless the Board, its current and former members, officers, directors, agents, servants, employees, successors, attorneys, assigns, and affiliates, against 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 or unsuspected, disclosed or undisclosed, initiated by [REDACTED] arising out of or in any way related to agreements, events, acts, omissions, or conduct which relate in any way or are premised upon this Agreement or [REDACTED] education, including without limitation: any and all such claims and demands directly or indirectly arising from or any way connected with the Board's obligation to provide [REDACTED] with a free appropriate public education, special education, and/or related services, including but not limited to compensatory education/services, occupational and/or physical therapy, speech/language services, counseling, and/or transportation; and/or claims pursuant to any federal, state, or local laws or causes of action arising from and/or related to the claims asserted in the Petition for Due Process. In the event that the Board shall be required to defend any such action initiated by [REDACTED] the Board shall be permitted to hire counsel of its own choice at the sole cost of Petitioners.
9. Tax Liability: The Board makes no representations or warranties regarding the taxability of any portion of the Payment referenced above. Petitioners understand and agree that an IRS Form 1099 may be issued in connection with the Payment. Petitioners acknowledge that the Board is not paying or withholding taxes on the Payment. Petitioners agree to assume full liability for any applicable state, federal, and/or local taxes that may be required by law to be paid with respect to any portion of this Settlement Agreement.
10. Confidentiality and Non-Disparagement: Both parties, individually and jointly, including [REDACTED], understands and agrees that this Agreement, including its terms, must remain confidential to the full extent allowed by law as a material term of this Agreement. As such, the Parties further understand and agree that the terms and existence of this Agreement are and shall remain confidential to the extent permitted by law and shall not be disclosed by either party, individually and/or jointly, to any other individual or entity, other than counsel,

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financial professional and/or services provider, and staff at Y.A.L.E. School, without the written consent of the other Party, unless enforcement of this Agreement is sought by the non-breaching Party in a court of law. None of the Parties shall engage in disparaging and/or negative comments or statements regarding any other Party and/or their conduct, with regard to the claims covered by this Agreement, this Agreement and/or the terms thereof, and/or the settlement process for this Agreement, in any forum or media, including, but not limited to, any and all social media statements or posts of any kind on any platform, website or application such as, but not limited to, Facebook, Instagram, YouTube, Twitter, or any other platform(s), website(s) or application(s).

11. Authority to Sign: Petitioners, individually and jointly, represent, verify, and affirm to the Board that they have the authority and ability to enter into this Agreement and that each of the Petitioners, including [REDACTED] understand and agree that this Agreement is binding on Petitioners, individually and/or jointly.
12. Review of Agreement: The Parties acknowledge that they have read and understand the terms of this Agreement, have had an opportunity to have had the Agreement reviewed by legal counsel (if they so choose), are satisfied with the advice of such counsel, and that they are entering into this Agreement knowingly, freely, voluntarily, without coercion, and not under the influence of anything or anyone.
13. Interpretation of Agreement: This Agreement shall be interpreted, enforced, and governed under the laws of the State of New Jersey, without regard to that jurisdiction's choice-of-law doctrines. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the Parties. The Parties understand and agree that that this Agreement is the product of mutual draftsmanship and any rule or law requiring that it be construed against the drafter shall not apply.
14. Entire Agreement: This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior written or oral and all contemporaneous oral agreements, understandings, and negotiations. This Agreement may only be amended in writing by way of a document signed by all Parties,

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15. Counterparts: This Agreement may be executed in one (1) or more counterparts, all of which shall be considered a single and the same and shall become effective when one (1) or more counterparts have been signed by each Party. It is understood and agreed that the Parties need not sign the same counterpart, and this Agreement shall be fully valid, legally binding, and enforceable whether executed in a single document or in such counterparts.

INTENDING TO BE legally bound hereby and IN WITNESS WHEREOF, the Parties hereto hereby execute this Settlement Agreement and General Release as witnessed by their signatures

below.

PETITIONERS

[Redacted]

[Redacted] individually and on behalf of [Redacted]

Date:

[Redacted]

P.C., individually and on behalf of [Redacted]

Date:

[Redacted]

[Redacted]

Date:

08 / 17 / 2023

RESPONDENT

Board President
BLACK HORSE PIKE REGIONAL
SCHOOL DISTRICT BOARD OF
EDUCATION Date: