

ATTACHMENT #3 - July 19, 2022

SETTLEMENT AGREEMENT & GENERAL RELEASE

The parties to this Settlement Agreement & General Release (“Agreement”) are (“Student”), and (“Parent”), individually and as Parent and legal guardian of Student and the Warwick School District (“District”).

RECITALS

WHEREAS, the purpose of this global Settlement Agreement is to resolve, fully and finally, all matters that have arisen and all matters and claims that could have arisen between the Parties relating to special education and related services for Student now and in the future through the date of execution of the Agreement; and

WHEREAS, is a student with a disability, as defined by law, who has rights under the Individuals with Disabilities Education Act (“IDEA”), its implementing regulations, and other state and federal laws; and

WHEREAS, Student resides within the area served by the District; and

WHEREAS, disputes have arisen between the parties, which could have become the subject of an administrative due process hearing under the IDEA or other litigation; and

WHEREAS, the Parties wish to avoid further disputes and litigation (including administrative litigation) over the matter, and therefore wish to settle any and all outstanding or potential claims of any kind relating to the provision of special education and related services to Student through the date of execution of this Agreement, whether or not such claims are known, including attorney fees and costs, witness fees and costs, evaluations, and any other costs associated with ascertaining whether the District has satisfied its obligation to offer a free and appropriate public education to Student.

NOW THEREFORE, in consideration of the mutual covenants, agreements, and promises set forth in this Agreement, as well as other good and valuable consideration, intending to be legally bound hereby, Student, Parent, and District (collectively “Parties”) hereby declare and agree as follows:

1. **Recitals.** The foregoing Recitals are incorporated herein and made a part of this Agreement.

2. **Purpose.** The purpose of this Agreement is to resolve any and all matters that have arisen and any and all matters that could have arisen or could arise between the Parties relating to the education of Student during all prior school years, through the date of execution of this Agreement.

3. **Current Program Placement.** For all purposes relating to this Agreement, the Student’s current educational placement is the public school program of the District.

4. **Compensatory Education Fund.** The District shall establish a Compensatory Education Fund in the amount of THIRTY THOUSAND DOLLARS (\$30,000.00) to expire on June 30, 2026. The Compensatory Education Fund shall be administered by the District and shall be used exclusively for payment of legitimate and appropriate educational expenses for Student, as defined herein, and attorneys’ fees. Legitimate and appropriate educational expenses for which payments or reimbursements shall be issued under this paragraph shall be limited to expenses incurred for the sole educational benefit of Student, and for which Parent or Student have not received reimbursement through insurance or other third party sources. “Legitimate and appropriate educational expenses” are defined as and limited to: (i) special education instruction, remedial and enrichment services provided by certified teachers or in licensed facilities or programs as indicated by the Student’s needs; (ii) assistive technology, if necessary, directly related to the educational instruction that the Student was or is then receiving; (iii) related services as defined in the regulations implementing the IDEA,

including but not limited, to psychological and/or psychiatric counseling, behavioral therapy and social/life skills training conducted at the direction and under the supervision of appropriately trained or certified personnel or in certified or licensed programs, supervision by an adult caretaker during non-school hours in connection with Student's current educational program; (iii) post-secondary vocational educational or training programs and services (but not for college tuition and related costs), including job coaching and employment training; (v) reasonable transportation, excluding the purchase or lease of a vehicle, but actual costs incurred for use of public transportation or reimbursement of mileage at the IRS approved mileage reimbursement rate to meet the Student's transportation needs to and from school, educational or training programs and services; (vi) software, books and texts, materials, supplies, and equipment directly related to an identified educational outcome; and (iv) attorneys' fees specifically related to this Agreement.

- a.** Student may seek payment of or reimbursement from the Education Fund for all legitimate and appropriate educational expenses, as defined by this Agreement, incurred through the expiration of the Education Fund, as provided for herein.
- b.** The Parties further agree that Student in order to access the Education Fund on behalf of Student, Parent shall provide the District with written evidence of a payment made or an obligation to pay, or by submitting a purchase invoice or statement, for legitimate and appropriate educational services. District shall make payment or provide reimbursement within thirty (30) business days of receipt of the required written evidence of payment described herein. The District shall have no obligation to make disbursements which are not submitted in accordance with the terms of this Agreement. Parent shall submit all required substantiating documentation for legitimate

and appropriate educational expenses to District, for payment and/or reimbursement.

- c. Nothing in this Agreement shall constitute acknowledgment by the School District that any of the programs, services, materials, or equipment for which payment or reimbursement is made under Paragraph 6 of the Agreement constitutes part of a free and appropriate public education for the Student nor establishes an interest in the continued provision of such programs, services, materials, or equipment beyond the point at which the provider thereof is unwilling or unable to continue or the funds available therefore under the terms of this agreement are exhausted, whichever is sooner.

- d. In the event any dispute arises with respect to whether an expense for which the Student seeks payment or reimbursement under this Agreement is a legitimate and appropriate educational expense as defined herein, the District shall provide written notice to Student of said dispute within ten (10) business days of receipt of the request for payment or reimbursement. Should the District provide such timely written notice of a dispute, either party may seek resolution of that dispute through a court of competent jurisdiction. The Education Fund may not be used for reimbursement of any attorney's fees and costs that may be incurred by the Parent and/or Student in the event of any such dispute, unless the matter proceeds through a full due process hearing and the Parent and/or Student is/are the prevailing party at due process.

- e. The Parties hereby agree that any payments made through the Education Fund, which are, for whatever reason, returned, sent or delivered directly to Parent and/or Student by any third party, must be immediately returned to District for inclusion in the Education Fund.
- f. In the event the Education Fund expires, is terminated or extinguished for any reason, including but not limited to the death of Student, any and all remaining monies in the Education Fund, including principal and accumulated income, shall return to the District.

5. **General Waiver and Release.** Parent and Student, hereby acknowledge and affirm that by consenting to this Agreement and accepting the consideration described herein, as well as the other obligations of this Agreement, Parent and Student irrevocably waive, release, and forever discharge any and all claims, demands, or rights of any kind, asserted or that could have been asserted, whether known or unknown, they may have against the District, its officers, directors, employees, agents, attorneys, and insurers from the beginning of time through the date of execution of this Agreement. As a result of the waivers and releases provided in this Agreement, Parent on their own behalf and on behalf of Student, hereby acknowledge and affirm that by consenting to this Agreement Parent release, and forever discharge all claims and/or demands of any kind relating to the District's obligation to offer and/or provide a free and appropriate public education to Student from the beginning of time through the date of execution of this Agreement.

6. **Specific Release of Claims.** Except as memorialized in this Agreement, Parent and Student waive all claims prior to the date of this Agreement against the District, its officers, directors, employees, agents, attorneys, and insurers arising out of or

relating to the education of Student including, but not limited to: (a) claims for compensatory education, (b) claims for tuition reimbursement or damages, (c) claims for reimbursement of attorneys' fees, and (d) any claims that could be raised by any administrative or judicial complaint regarding the education of Student. Parent shall refrain from any action that has the effect of initiating, reinstating, or revving any administrative or judicial proceeding of any sort against the District, its officers, directors, employees, agents, attorneys, and insurers regarding Student. However, nothing in this Agreement shall be interpreted as limiting the ability of any Party to litigate issues of non-implementation of this Agreement.

7. **No Admission.** This Agreement hereby settles disputed issues of fact and law and all potential disputed issues of fact and law between the Parties from the beginning of time through the date of execution of this Agreement, and is to be interpreted in the broadest terms in favor of mutual release so as to avoid future litigation between the Parties, including, but not limited to, any claim for wrongful use of civil proceedings, or any other similar statute, rule, common law tort, arising out of this litigation, and so as to fully resolve any and all disputes between the Parties from the beginning of time through the date of execution of this Agreement. Nothing contained in this Agreement shall be deemed to constitute an admission or acknowledgement by any of the Parties hereto of any wrongful, unlawful, or improper act, conduct, or failure to act, not an admission or acknowledgement of liability of any kind. The Parties acknowledge that the payments provided for in this Agreement are intended to provide Parent and Student with consideration for a settlement and compromise of all outstanding claims that Parent or Student may now have or may have in the future against the District, its officers, directors, employees, agents, attorneys, and insurers on account of the education of Student through the date of execution of this Agreement.

8. **Acknowledgement of Waiver of Statutory Rights.** Parent and Student acknowledge that, by entering into this Agreement and by accepting the District's

payments, they are waiving rights which Parent and Student may otherwise have under state and federal law, including the Pennsylvania School Code, Pennsylvania regulations issued by the State Board of Education or the Department of Education, the Individuals with Disabilities Education Act, under Section 504 of the federal Rehabilitation Act, under Sections 1983 and 1988 of the federal Civil Rights Act, and under any other state or federal law.

9. Consultation with Counsel. Each Party acknowledges: (a) that each Party has consulted with its counsel concerning its rights, Student's rights, and this Agreement, (b) that each Party is satisfied with any advice it has received from counsel, and (c) that it is signing this Agreement, including the waiver of rights, knowingly and voluntarily.

10. Confidentiality. The Parties and their respective counsel will not divulge the existence of this Agreement or any particulars to any third party other than to Student's existing and future education service providers as necessary in connection with Student's enrollment in an educational program including, but not limited to, psychologists, therapists, tutors, related service providers, and evaluators. The District may release the Agreement to the extent required by law, including as required by the Pennsylvania Right to Know Law. The Parties may divulge the Agreement to a court in the event of an action to enforce the commitments made in this Agreement.

11. Entire Agreement. This Agreement constitutes the entirety of the agreement and understandings of the Parties relating to the subjects described in this Agreement. No promise or inducement not expressed herein has been made to the Parties. This Agreement shall not be subject to any claim of mistake of fact, as it expresses a full and complete settlement, regardless of the adequacy or inadequacy in the amount paid.

12. Construction and Enforcement. This Agreement shall be construed under Pennsylvania law. Headings of paragraphs in this Agreement are for convenience only and shall not be used to interpret or construe its terms or provisions. Nothing in this

Agreement shall be construed as limiting the right of the Parties to seek enforcement of this Agreement (after it becomes effective), by action at law or equity or by any other legal proceeding.


13. Execution in Counterparts. This Agreement may be executed in counterparts, including facsimile and email counterparts, and all such executed counterparts, including counterparts with email or facsimile signatures, together shall constitute one original Agreement which shall be binding upon Parties. This Agreement will be effective on the latest of the dates indicated below.

14. Authority to Enter into Agreement. Each Party warrants that the person signing this Agreement is authorized and empowered to sign this Agreement on its/his/her/their behalf, and to bind such Party to the terms of this Agreement.

CAUTION: READ THIS ENTIRE AGREEMENT, WHICH INCLUDES EIGHT (8) PAGES, AND FOURTEEN (14) NUMBERED PARAGRAPHS, BEFORE SIGNING YOUR NAME BELOW

WHEREFORE, intending to be legally bound, the Parties have executed this Agreement as set forth below.

Date: Jun 27, 2022


(Jun 27, 2022 14:02 EDT)
_____ individually and as Parent and
Legal Guardian of

WARWICK SCHOOL DISTRICT

Date: _____

By: _____
Dr. April Hershey, Superintendent