In Re: s and Watertown Public Schools

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (hereinafter, the "Agreement") is made by and betwe the parents of (the "Student") (collectively referred to as "the Parents"), and the Public Schools (and the Watertown Public Schools ("Watertown"), (Watertown and re collectively referred to as the "Districts"), (collectively, hereinafter, the "Parties").

WHEREAS, the Parties agree that the Student is a student with special educational needs, whose parents reside in Massachusetts, and Watertown, Massachusetts and that the Districts have the responsibility for providing him with a free appropriate public education, including special education and related services; and

WHEREAS, the Parents have rejected the Individualized Educational Plans ("IEPs") which the Districts offered to the Student; and

WHEREAS, the Parents have requested that the Districts reimburse them for their unilateral placement of the Student at the School, Inc. in its residential programs ("PLACEMENT") and prospective placement therein; and

WHEREAS, the Parties desire to resolve the dispute regarding the Student's educational placement by mutual agreement and without the expense of further litigation; and

NOW WHEREFORE, in full consideration of the mutual promises and covenants contained herein, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Settlement: This Agreement is entered into in full settlement of any and all claims which the Parents have or might have asserted against the Districts, its officers both elected and appointed, its agents, employees, or attorneys pertaining to, or arising out of any and all obligations which the Districts had or now has to provide a free appropriate public education (FAPE) to the Student, including but not limited to the provision of regular and special education and/or related services, for any and all periods since he enrolled in the .o the date of execution of this Agreement.

2. The Parties agree to the following funding arrangement for the Student's full year (school year plus summer) at PLACEMENT in its residential programs from September 7, 2019 through March 28, 2025 as follows:

a. 9/7/2019 -8/31/2020: Having received proper proof of payment, the Districts agree to reimburse the Parents the total amount of Fifty-Two Thousand, Five Hundred Sixteen Dollars ($52,516.00) (each district shall pay 50% ($26,258.00) for the total of $52,516.00) for the day rate at PLACEMENT (school year and summer 2020) incurred between 9/7/19 and 8/31/2020 by check for half that amount from each district made payable to and mailed to within sixty (60) days of the date of this Agreement.

b. 9/1/2020 – 3/28/2025: The Districts agrees to fund, by paying PLACEMENT directly, 100% of the OSD tuition rate (with each District paying 50%) for the Student's tuition at PLACEMENT'S day program (OSD Code . plus 100% (with each District paying 50%) the rates set by PLACEMENT for the PLACEMENT Summer Programs (the PLACEMENT summer program is not OSD approved). For purposes of this Agreement, the phrase "applicable public tuition rate" shall mean the amount established by the Massachusetts Operational Services Division (or any future counter-part) which reflects the rate of tuition of the Day Program that PLACEMENT will charge public school districts for publicly funded students. (the annual 2020-2021 OSD approved day rate for the school year is Fifty Thousand, Seven Hundred Forty-Two Dollars and Nineteen Cents ($50,742.19) and the Summer RIVERVIEW (pre-covid) rate set for was Day Program for Summer 2020 was ($4893.25.00) (the total for the OSD approved day rate for school year plus day programs thus is $55,635.44). It is understood that the OSD approved day rate for the school year may increase for 2021-2022 and future years and that the PLACEMENT rate for the Placement Day Summer Program may also increase for Summer 2021 and future summers and that the Districts shall pay the increased rates. The IEP and Placement Consent Form for 9/7/2020– 8/30/21 (the "2020-2021 IEP and Placement Consent Form") shall be executed simultaneously with the execution of this Settlement Agreement.

c. It is understood that, except as set forth in Paragraph 4(a) below, the Parents shall pay any amounts for the Student to attend any ortion of the programs and Parents shall be responsible for any charges by that exceeds the OSD day rate, that the Parents shall pay the same directly to PLACEMENT.

3. The 2021-2022, 2022-2023, 2023-2024, 2024-2025 IEPs and Placement Consent Forms shall be modeled after the 2020-2021 IEP and Placement Consent Form, with the understanding that any changes must be agreed upon by both Parties. shall provide the IEPs, PL1s and Transition Planning Forms to the District and the District shall provide those documents to the Parents as administratively developed IEPs, PL1s and Transition Planning Forms. The Parents agree to fully sign and accept same. Except as set forth in Paragraph 4(a) below, the PARENTS waive all requirements that the Districts convene Team meetings, conduct evaluations (including the three-year reevaluation), and fund any independent evaluations. This paragraph does not prevent the Parents from meeting with representatives from the PLACEMENT to discuss the Student's programming.

4. Termination of Enrollment at Placement.

a. At any time prior to March 28, 2025, if STUDENT cannot or will not remain enrolled at PLACMENT for any reason or is terminated and the Districts remain programmatically and fiscally responsible for Student's education under applicable statutes and/or regulations, upon receipt of written notice from Parents or Student's guardian, the Districts shall be responsible for providing the Student and his Parents with all rights afforded to students with special education needs

who reside in the Districts. The Districts shall convene a Team meeting within 10 days to develop an IEP upon receipt of such written notice from Parents. The Districts shall propose an IEP within 14 days after this Team meeting, as required by law. In the event that the Districts deem a re-evaluation necessary in order to propose such IEP, Parents consent to the Districts conducting any such reasonable re-evaluation which will be conducted by qualified district evaluators. Any such re-evaluation shall be preceded by proper notice to Parents, specifying the types of assessments the Districts propose to conduct. If, following the Team meeting, there is a dispute regarding Student's educational programming, then subject to and conditioned on the Districts' compliance with its obligations under this Agreement, the placement pending appeals / "stay put" placement shall be an approved private or public day school This limitation shall not, however, preclude Student/Parents/guardians from requesting a placement other than what is proposed by the Districts, placing Student unilaterally elsewhere, or from seeking reimbursement from the Districts for any such placement or seeking findings from the BSEA and shall not preclude the District from seeking a finding that their proposed placement is appropriate

b. End of Student's Entitlement to Services from the Districts. STUDENT turns 22 on . The Parties agree that, except as set forth in Paragraph 4(a) above, the Districts' financial and programmatic responsibility under state and federal laws and regulations for the Student's education shall terminate as of despite Student's transition needs and/or whether or not Student has satisfied graduation requirements of his school or the Districts and regardless of whether the STUDENT has or has not passed the Massachusetts Comprehensive Assessment System ("MCAS") examinations.

5. The Districts agree to provide the PLACEMENT with contracts (attached hereto as Exhibit "A") for 9/1/2020 – 6/30/21 simultaneously with the signing of the Agreement. The Districts agree to provide the PLACEMENT with contracts pursuant to 603 CM 28.06(3)(f) for 7/1/21-3/28/25 in accordance with Paragraphs 1, 2, and 3 above and modeled after Exhibit "A" (with only changes adding the non OSD rate for Summers and any other changes acceptable to the Districts and the PLACEMENT).

6. The Parties understand and agree that the Districts' placement, IEPS and payments in accordance with this Agreement and 688 referral as set forth in this Agreement shall be for the provision of all regular education, special education and all related services for the Student and that the Districts will not incur additional costs or other obligations above the agreed to amounts paid in Paragraphs 1, 2 and 3of this Agreement relating to the provision of regular education, special education, related services, transition services, or other services, fees, or activities during the time period covered by this Agreement, except as required by Paragraph 4(a) above below.

7. The Parents waive transportation by the Districts or reimbursement for transportation from the Districts for all times covered by this Agreement, except as required by Paragraph 4(a) above.

8. The Districts shall make a 688 referral to DDS and other appropriate agencies as required by law with cooperation of Parents.

9. It is understood and agreed upon by the Parties that the Districts' obligation to fund per this Agreement of the cost of tuition for Student's placement as set forth in Paragraphs 1-4 above at PLACEMENT shall apply only to such period(s) as Student is accepted by, and participates in the special education program and related services provided by PLACEMENT and otherwise remains in good standing as a student at PLACEMENT. That is, the Districts shall not have any obligation to fund any portion of Student's placement at PLACEMENT for any period in which he is not in actual attendance, or participating in the special education program at PLACEMENT, either in person and/or virtually, except for absences because of illness, or otherwise in accordance with PLACEMENT's policy of excused absences.

10. This Agreement remains in effect only so long as the Student is enrolled in and participating at PLACEMENT, and, except as limited by the provisions of M.G.L. c. 71B, §5, that Student or one of his Parents or a guardian remain a resident of Lexington and/or Watertown.

11. The Parties acknowledge that this Agreement is a legally binding contract. The Parties acknowledge that they have each been represented by an attorney for the purpose of resolving the matters in dispute and negotiating the terms of this Agreement. The Parties waive any request for attorneys' fees related to this action The Parties further acknowledge that they have entered into this Agreement freely and voluntarily, with full understanding of its terms and without any other inducements or promises except those set forth herein.

12. The Parents hereby agree that the Districts may observe the Student within his classroom setting as required and set forth by applicable regulations. The Parents hereby consent and grant permission to the Districts to obtain copies of any records, reports, progress notes, grades and testing results authored by PLACEMENT educators, or other PLACEMENT service providers pertaining to the Student during the course of his enrollment at PLACEMENT.

13. Except for the obligations set forth in this Agreement, and except as set forth in Paragraph 4(a), and except to enforce the terms of this Agreement, each Party, for itself, its agents and employees, agrees to release and forever discharge the other Party, its agents, employees, and attorneys of and from any and all debts, demands, actions, causes of action, suits, liabilities, claims of procedural violations, claims for attorney's fees and any and all claims of any kind, nature and description, including claims for legal fees, related to the Student's special education, both in law and in equity, under M.G.L. c. 30A, 71, 71B, 76, 231, and 258, 20 U.S.C. §1400 et seq., 1983, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, and any and all other related acts, laws, and regulations, from the date the Student enrolled in Public Schools up to and including the date of execution of this Agreement of which they knew or should have known. Nothing in this Agreement shall prohibit the Parents or the Districts from pursuing future claims to enforce the terms of this Agreement.

14. The Parties acknowledge that they each have had an opportunity to consult with an attorney, that they have read this entire Agreement, and have signed this Agreement voluntarily with full understanding of its terms and without any other inducements or promises except for those set forth herein.

15. This Agreement is the entire agreement between the Parties and is intended to take effect as a sealed instrument upon execution by the Parties. This Agreement is governed by the laws of the Commonwealth of Massachusetts.

16. and hereby warrant and certify that they are the parents and legal guardians of Student with full power and authority to sign this Agreement on his behalf as well as their own. In the event that that the Parents are not appointed as the Student's legal guardians after the Student's turning 18 years of age, Parents further agree to defend and indemnify the District in the event of any claim by the Student upon turning 18 years of age, or any third party on the Student's behalf, seeking funding or services from or through the District in excess of the funding and services provided for in this Agreement except as may be required under the circumstances described in Paragraphs 4 of this Agreement. In the event that the Parent(s) are appointed as the Student's legal guardian, they shall continue to be bound by the terms of this Agreement.

17. The Districts represent that they have the funds and authority to pay the monetary amounts set forth in this Agreement and to enter into this Agreement and its terms.

18. In her capacity as the Director of Special Education for the Schools, hereby warrants and certifies that she has full power and authority to sign this Agreement on behalf of the Public Schools.

19. Kathleen Desmarais, in her capacity as the Director of Student Services for the Watertown Public Schools, hereby warrants and certifies that she has full power and authority to sign this Agreement on behalf of the Watertown Public Schools.

IN WITNESS THEREOF, the Parties have executed this Settlement Agreement with electronic signature.

_____ Individually on behalf of her , the Student

12/9/2020
Date

_____, Individually on behalf of his the Student

12/9/2020
Date

12/16/2020
Date

Director of Special Education is

12/18/2020
Date

Kathleen Desmarais
Director of Student Services, Watertown Public Schools