



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

AMENDED

FINAL DECISION

APPROVING SETTLEMENT

OAL DKT. NO. EDS 02880-23

AGENCY DKT. NO. 2023-35544

**GREENWICH TOWNSHIP
BOARD OF EDUCATION,**

Petitioner,

v.

B.S. ON BEHALF OF A.S.,

Respondent.

Paul Kalac, Esq., for petitioner (Weiner Law Group, LLP, attorneys)

Jamie Epstein, Esq., for respondent

Record Closed: August 31, 2023

Decided: September 11, 2023

BEFORE **SARAH G. CROWLEY, ALJ:**

This case arises under the Individuals with Disabilities Education Act, 20 U.S.C. §§1400 to 1482. The parties have voluntarily agreed to resolve all disputed matters and have entered into a settlement as set forth in the attached fully-executed Settlement Agreement and Release.

I have reviewed the terms of settlement and I **FIND**:

1. The parties have voluntarily agreed to the settlement of the petition, as evidenced by the parties' signatures, or their representatives' signatures, on the attached Settlement Agreement.

2. The settlement and Board approval fully disposes of the issues of the Board of Education's denial of B.S. on behalf of A.S.' February 21, 2023, request for Independent Education Evaluation (IEE).

Therefore, I **ORDER** that the parties comply with the settlement terms and that these proceedings be concluded.

The settlement and Board approval fully disposes of all issues in controversy between them and is consistent with the law.

September 11, 2023
DATE



SARAH G. CROWLEY, ALJ

Date Received at Agency:

September 11, 2023

Date Mailed to Parties:

September 12, 2023

SGC/kl



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

AMENDED BY CONSENT

FINAL DECISION

APPROVING SETTLEMENT

OAL DKT. NO. EDS 04715-23

AGENCY DKT. NO. 2023-35667

B.B.S. ON BEHALF OF A.S.,

Petitioner,

v.

GREENWICH TOWNSHIP

BOARD OF EDUCATION,

Respondent.

Jamie Epstein, Esq., for petitioner

Paul C. Kalac, Esq., for respondent (Weiner Law Group, LLP, attorneys)

Record Closed: August 22, 2023

Decided: August 22, 2023

BEFORE KATHLEEN M. CALEMMO, ALJ:

This case arises under the Individuals with Disabilities Education Act, 20 U.S.C. §§1400 to 1482. The parties have voluntarily agreed to resolve all disputed matters and have entered into a settlement as set forth in the attached document.

I have reviewed the terms of settlement and Board approval and I **FIND**:

1. The parties have voluntarily agreed to the settlement as evidenced by their signatures or their representatives' signatures on the attached Settlement Agreement and Release, along with the Board approval, sent via email on August 16, 2023. (J-1.)
2. The settlement and Board approval fully disposes of all issues contained in the Settlement Agreement and Release (J-1). Specifically, petitioners waive their claim regarding respondent's implementation of the February 15, 2023, Individualized Education Plan (IEP) without petitioner's consent.

Therefore, I **ORDER** that the parties comply with the settlement terms and that these proceedings be concluded.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2022). If the parent or adult student feels that this decision is not being fully implemented with respect to program or services, this concern should be communicated in writing to the Director, Office of Special Education.

August 22, 2023
DATE

Kathleen M. Calemmo
KATHLEEN M. CALEMMO, ALJ

Date Received at Agency:

(courtesy copy 8.22.23)

Date Sent to Parties:

9/1/2023

KMC/ser

APPENDIX

EXHIBITS

Jointly submitted

- J-1 Settlement Agreement and Board Approval, received via email on August 16, 2023

WEINER LAW GROUP, LLP
331 Newman Springs Road
Building 1, 3rd Floor, Suite 136
Red Bank, New Jersey 07701
T: (732) 978-1210 F: (973) 403-0010
Attorney(s) for Respondent, Greenwich Township Board of Education
Our File No.: GWH-025

<p>GREENWICH TOWNSHIP BOARD OF EDUCATION,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>B.S. o/b/o A.S.,</p> <p style="text-align: center;">Respondent.</p>	<p>STATE OF NEW JERSEY DEPARTMENT OF EDUCATION OFFICE OF ADMINISTRATIVE LAW</p> <p>Agency Ref. No.: 2023-03554 OAL Dkt. No.: EDS 02280-2023</p>
<p>B.B.S. o/b/o A.S.,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>GREENWICH TOWNSHIP BOARD OF EDUCATION,</p> <p style="text-align: center;">Respondent.</p>	<p>STATE OF NEW JERSEY DEPARTMENT OF EDUCATION OFFICE OF ADMINISTRATIVE LAW</p> <p>Agency Ref. No.: 2023-25667 OAL Dkt. No.: EDS 04715-23</p> <p>SETTLEMENT AGREEMENT AND RELEASE</p>

This Settlement Agreement and Release is made and entered into this 25th day of July 2023 by and between B.B.S. individually and on behalf of A.S., a minor (hereinafter “Parent” or “Petitioner”) and the Greenwich Township Board of Education (Gloucester County), (hereinafter referred to as the “Board” or “District”), located at 415 Swedesboro Road, Gibbstown, New Jersey 08027.

WHEREAS, A.S. is currently a seven (7) year old student attending the District’s Broad Street Elementary School; and

WHEREAS, for the 2022-2023 schooling year, A.S. was a 1st grade student, and he will be a 2nd grade student for the 2023-2024 schooling year; and

WHEREAS, the Board is the local educational agency (“LEA”) responsible for providing educational services to A.S. as he resides within the geographical boundaries of the District; and

WHEREAS, on November 14, 2022, the Parent filed a written request with the District seeking a referral to the Child Study Team for initial evaluations to determine if the student was eligible for special education and/or related services; and

WHEREAS, on November 28, 2022, an initial evaluation planning meeting was held by the District, and, at that particular meeting, the Parent provided written consent for the administration of four (4) evaluations, to wit, a 1.) Psychological evaluation 2.) Educational evaluation 3.) Social evaluation and 4.) Speech-Language evaluation; and

WHEREAS, all four (4) of those evaluations were administered to A.S. during the months of December 2022, January 2023, and February 2023; and

WHEREAS, on or about February 21, 2023, the Parent, in compliance with State and Federal special education regulations, requested an independent evaluation of A.S.; and

WHEREAS, as part of the request for independent evaluations, the Parent requested the following evaluations: 1.) Functional Behavior Assessment, and, if indicated a Functional Analysis and if indicated a Behavior Intervention Plan by Dr. Christen Russell 2.) Pediatric Neurological Assessment by Dr. Adel Amer, M.D., 3.) Speech and Occupational Therapy Assessments by Riza Miro & Associates 4.) Assistive Technology Assessment by the Department of Special Education, Language & Literacy, The College of New Jersey 5.) Reading Assessment by Ellen G. Topiel, and 6.) Neuro-psychological by Dr. Kristen Herzel; and

WHEREAS, on March 3, 2023, in accordance with State and Federal special education

laws, the District filed a due process petition denying the parental requests for a due process hearing; and

WHEREAS, on or about March 27, 2023, the Parent filed an application for emergency relief against the District; and

WHEREAS, on or about March 29, 2023, the New Jersey Department of Education denied the Parent's application for emergency relief; and

WHEREAS, on or about March 29, 2023 the Parent filed a 2nd application for emergency relief against the District; and

WHEREAS, that 2nd application for emergency relief was denied as well, but the Department of Education opened the Parent's matter as a standard due process petition; and

WHEREAS, due process hearings were conducted before The Honorable Sarah G. Crowley, ALJ, on May 8, 2023, June 5, 2023, and June, 21, 2023; and

WHEREAS, both parties rested their cases on June 21, 2023, subject to providing post hearing argument/written summations to the Court; and

WHEREAS, on June 27, 2023, a Settlement Conference was held on the Parent's due process petition before an administrative law judge, but no resolution was reached; and

WHEREAS, on July 6, 2023, counsel participated in a pre-hearing Settlement Conference with The Honorable Tricia Caliguire, ALJ; and

WHEREAS, Judge Kathleen Calemno ordered a briefing schedule and scheduled due process hearings for August 2023; and

WHEREAS, on or about June 22, 2023, the parties began discussions regarding possible resolution of the District's case; and

WHEREAS, between June 23, 2023 and on or about July 11, 2023, good faith settlement

discussions on both the District's case and the parent's case continued; and

WHEREAS, on June 29, 2023, a conference call was held with counsel and ALJ Crowley regarding the potential for the District's case to settle; and

WHEREAS, on July 11, 2023, counsel for the District appeared in closed session with the Board of Education to discuss potential resolution of both the District's and the Parent's cases, and

NOW, THEREFORE, in consideration of the mutual promises and covenants, and other good and valuable consideration set forth herein, the parties agree as follows to resolve both litigations identified above:

1. In order to avoid the continued time, expense, and uncertainty of litigation for both matters, the District and the Parent agree as follows:

The District will pay for the following independent evaluations at the costs identified below. Any and all bills for such evaluations will be forwarded by the Parent to the District to process.

- Functional Behavior Assessment, and, if indicated a Functional Analysis and if indicated a Behavior Intervention Plan by Dr. Christen Russell: \$3,700.00
- Pediatric Neurological Assessment by Dr. Indira Kumar: \$830.00
- Speech Therapy Assessment by Riza Miro & Associates: \$1,100.00
- Occupational Therapy Assessment by Riza Miro & Associates: \$550.00
- Assistive Technology Assessment to be performed by JVES Human Resources \$775.00 (plus equipment and installation fees, if any)
- Reading Assessment to be performed by Rachaele Cianci: \$1,100.00
- Neuro-psychological evaluation by Dr. Kristen Herzel: \$4,950.00

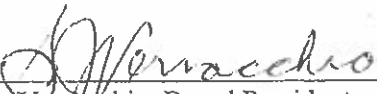
2. Payment of one-time, lump sum of \$25,653.03 in counsel fees and costs which is comprised of the following totals: \$25,000 in counsel fees and \$653.03 in costs. Such payment will be made to the attorney Trust Account of Jamie Epstein, Esq. with principal offices located at 17 Fleetwood Drive, Hamilton, New Jersey 08690. (within 30 days of the date of the final order)
3. The Board agrees they will not implement an initial IEP without B.B.S.'s written consent
4. This Settlement Agreement and Release is made without any admission, liability, responsibility, or wrongdoing by the District and shall not be construed as an admission by the District that it did not, at all times relevant hereto, properly perform its duties and responsibilities in accordance with applicable State and Federal special education law
5. In consideration of the above, B.B.S., individually, and o/b/o of A.S. hereby fully and completely releases the District, its Board, attorneys, employees, Directors, administrators (both past and present) and agents through the date this Settlement Agreement is signed by ^{limited to:} both parties: ^ A. BBS/AS waive their claim regarding the BOE's denial of their 2/21/23 request for an IEE; and 2. BBS/AS waive their claim regarding the BOE's implementation of AS' 2/15/23 IEP without BBS's consent. *
6. The parties acknowledge that they have read and understand the terms of this Settlement Agreement and Release, that they have had the opportunity to have the Settlement Agreement and Release reviewed by counsel of their choosing, and that they are satisfied with the advice of their respective counsel, and that they are entering into this Settlement Agreement knowingly, freely, voluntarily, without coercion or duress and not under the influence of anything or anyone.
7. The parties agree that neither party is considered a "prevailing party" as that term is defined under applicable special education law, and neither party is entitled to expenses, attorneys'

fees/costs (except as expressly identified in Paragraphs 1 and 2 above) or professional fees, pursuant to 20 U.S.C., Section 1415 et seq. or any other Federal or State statute solely by virtue of this Settlement Agreement and Release.

8. This Settlement Agreement and Release 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 and the United States as a final IDEA Order.
~~applied to contracts made and to be performed entirely within New Jersey.~~
9. If during the term of this Settlement Agreement and Release, a specific clause of the Settlement Agreement and Release is determined to be illegal or in violation of any Federal or State law, the remainder of the Settlement Agreement and Release shall not be affected by such a ruling and shall remain in full force and effect.
10. B.B.S. agrees that this Settlement Agreement and Release is subject to approval by the Board during its next regularly scheduled meeting following B.B.S.'s execution of the document. That meeting is currently scheduled for Tuesday, August 8, 2023. If the Settlement Agreement and Release is approved by the Board, all reimbursements as identified in Paragraph 2 above shall be paid to the Trust Account of Jamie Epstein, Esq. with principal offices located at 17 Fleetwood Drive, Hamilton, NJ. 08690. The parties further agree the final fully executed agreement shall be incorporated into the final orders of EDS 02280-23 and EDS 04715-23.

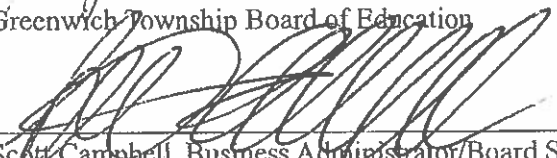
The parties hereby acknowledge their agreement to the terms as set forth above by signing below.

IN WITNESS WHEREOF, the parties have hereunto set their hands and signatures on the date and year set forth below.



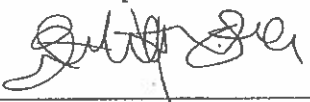
Sue Vernacchio, Board President
Greenwich Township Board of Education

8/8/2023
Date:



Scott Campbell, Business Administrator/Board Secretary
Greenwich Township Board of Education

8/8/2023
Date:



B.B.S., individually and o/b/o A.S., parent of A.S.

07/25/2023
Date:



**GREENWICH TOWNSHIP BOARD OF
EDUCATION**

415 SWEDESBORO ROAD, GIBBSTOWN, NEW JERSEY 08027

Scott A. Campbell
School Business Administrator/Board Secretary

Phone: (856) 224-4920 x2120
Fax: (856) 423-1210

EXCERPT OF MINUTES
SETTLEMENT AGREEMENT

The following action of the Board of Education is hereby certified and will be recorded in the official minutes of the Regular Meeting of the Board of Education held on August 8, 2023.

On a motion by Andrew Chapkowski and seconded by Erin Herzberg, approval was made for the following:

- A. The approval for the settlement agreement and release for *OAL Dkt. No. EDS 02280-2023* and *OAL Dkt. No. EDS 04715-23* and all terms and conditions set forth in that document.

Motion carried by unanimous roll call vote.

Board Members: Roseanne Lombardo
Meghann Myers
Andrew Chapkowski
John Goetaski
Erin Herzberg
Susan Vernacchio

Certified by: 

Scott A. Campbell, School Business Administrator/Board Secretary
August 8, 2023