



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER

INTERIM SETTLEMENT

D.Z.,

Petitioner,

v.

AUDUBON BOARD OF EDUCATION

AND Y.A.L.E. SCHOOL INC.,

Respondents.

OAL DKT. NO. EDS 18271-18

AGENCY DKT. NO. 2019-29066

Jamie Epstein, Esq., for petitioner

Marc G. Mucciolo, Esq., for respondent (Methfessel & Werbel, P.C., attorneys)

BEFORE **MARY ANN BOGAN, ALJ:**

This special education case arises under the Individuals with Disabilities Education Act, 20 U.S.C.A. §§1400 to 1482. The matter was transmitted to the Office of Administrative Law (OAL) on December 26, 2018. Petitioner and Audubon Board of Education (Audubon) have voluntarily agreed to resolve all disputed matters and have entered into a settlement as set forth in the attached document, which does not include Y.A.L.E. School Inc. (YALE).

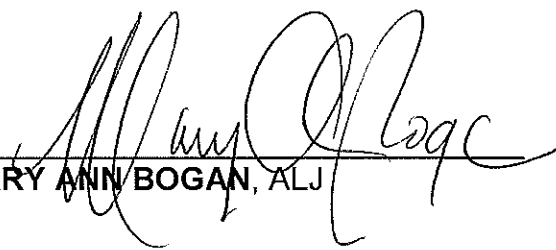
I have reviewed the record and the terms of settlement and I **FIND**:

1. The parties have voluntarily agreed to the settlement as evidenced by their signatures or their representatives' signatures on the attached document.
2. The settlement fully disposes of all issues in controversy between petitioner and Audubon BOE and is consistent with the law.

Therefore, I **ORDER** that the petitioner and Audubon BOE comply with the settlement terms and that these proceedings be concluded. Audubon is hereby **DISMISSED** from this matter.

A hearing has been scheduled on the remaining disputed matters involving YALE before Administrative Law Judge Dean J. Buono for **July 22, 2019 at 9:00 a.m.**, at the Office of Administrative Law, 9 Quakerbridge Plaza, Mercerville, NJ 08619.

June 26, 2019
DATE



MARY ANN BOGAN, ALJ

Date Received at Agency:

June 26, 2019

Date Mailed to Parties:

MAB/cb

Attachment



Audubon Board Of Education

350 Edgewood Avenue, Audubon, New Jersey 08106-1545

Phone: 856-547-7695 ext: 4104 • Fax: 856-546-8550

droncace@audubonschools.org

Deborah J. Roncace, CPA

*Business Administrator/
Board Secretary*

June 13, 2019

Marc G. Mucciolo
Methfessel & Werbel, Esquires
2025 Lincoln Highway, Suite 200
PO Box 3012
Edison, NJ 08818

Dear Mr. Mucciolo:

At the meeting on June 12, 2019, the Audubon Board of Education approved the settlement agreement with Petitioner, D. Z.

Enclosed, please find the signed agreement and certified minutes. If you have any questions, please contact me.

Very truly yours,

Debbie Roncace
Business Administrator

cc: N. Bisinger
A. Davis

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2019 JUN 14 A 11: 27
STATE OF NEW JERSEY
OFFICE OF ADMIN. LAW

MISSION STATEMENT

In partnership with our students, families, and communities, the Audubon Public Schools will educate all students by providing motivating and challenging learning experiences embedded in technology that prepare them to achieve the New Jersey Student Learning Standards at all grade levels, in a safe setting of mutual respect, in order to develop ethical, productive citizens who will contribute to the local and global community.



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Motioned by Board Member Whitman


Seconded by Board Member Simpson to approve the following motion:

Motion to approve the negotiated settlement agreement between the parents/guardians of student #44530 and the Audubon Board of Education in the amount of \$74,631.15.

Motioned Approved, 10-0

I hereby certify that this is a copy of the original minutes of the Audubon Board of Education Meeting held on Wednesday June 12, 2019.

June 13, 2019



Deborah Roncace Board Administrator/Board Secretary

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J-1

Marc G. Mucciolo - ID #036702007
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(732) 248-4200
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mucciolo@methwerb.com
Attorneys for Audubon Board of Education
Our File No. 86996 MGM

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ADMINISTRATIVE LAW
OAL DKT. NO. EDS 18271-18S
AGENCY REF. NO. 2019-29066

Administrative Action

**SETTLEMENT AGREEMENT AND
RELEASE**

WHEREAS, D.Z. ("Petitioner") is an twenty (20) year-old adult student residing within the Audubon School District ("Audubon"), a kindergarten through twelfth grade public school district operated by the Board; and

WHEREAS, D.Z is eligible to receive special education and related services pursuant to the Individuals with Disabilities Education Act ("IDEA"), and currently attends the YALE Standard Nine program (YALE), an approved private school housed at Camden County College in Blackwood, New Jersey, through a previous settlement agreement and stay put; and

WHEREAS, on May 16, 2018, Audubon convened an Individualized Education Plan (IEP) meeting and proposed a program and placement for the 2018-2019 school year at YALE; and

WHEREAS, a dispute arose with regard to D.Z.'s proposed program, which culminated in D.Z. filing a request for due process against both Audubon and YALE, which was assigned Agency Reference Number 2019-29066 and Office of Administrative Law Docket Number EDS 18271-18S, contesting the proposed IEP, and requesting compensatory education and reimbursement for private expenses, etc.; and

WHEREAS, D.Z. and Audubon are desirous of resolving the issues raised by the Due Process Request, and have reached an amicable resolution, which does not include Yale and shall have no effect on D.Z.'s claims against Yale, whether raised or not raised in the above captioned matter, hereby avoiding the time and expense associated with further litigation.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, D.Z. and Audubon hereby agree as follows:

1. On or before July 1, 2019, Audubon will pay to D.Z. the amount of Seventy Four Thousand, Six Hundred and Thirty One Dollars and Fifteen Cents (\$74,631.15). Payment shall be made by check to the trust account of Jamie Epstein, Esq.

2. D.Z. will cease to be the educational responsibility of Audubon effective immediately. D.Z. will receive an Audubon High School Diploma within thirty (30) days of the Agreement being incorporated into a Final Decision and Order by Judge Bogan.

3. Subject to the terms of this Agreement, Audubon shall cause a payment to be made by its insurer to the Law Offices of Jamie Epstein, Esq., in the amount of Twenty Five thousand dollars (\$25,000.00) for fees and costs incurred by D.Z. for this matter. Payment shall be contingent upon receipt by the insurer of a W-9 and bills from petitioner's counsel evidencing total fees and costs equal to or greater than \$25,000. Payment shall be made by check to the trust account of Jamie Epstein, Esq. no later than July 31, 2019.

*between DZ + AUDUBON. D.Z.
NB*

AS WELL AS APPROVAL BY THE CARRIER FUND. D.Z. NB

4. It is expressly agreed and understood by D.Z. and Audubon that the compensation set forth in Paragraphs 1 and 3 above is being made in consideration for full and final settlement of any and all claims of whatsoever nature, past, present and/or future, that were, could have been or might be raised by D.Z. and/or anyone acting on D.Z.'s behalf, against Audubon or any of its employees, agents, designees, etc., from the beginning of time through to the date upon which this Agreement is incorporated into a Final Decision and Order by Judge Bogan. This waiver includes any and all claims, civil, administrative, attorney fee or otherwise, as well as a withdrawal with prejudice of the GRC Complaint, Docket No. 2019-93 SR, filed by D.Z. against Audubon in May of 2019.

Nothing contained herein shall be interpreted as preventing the Parties from bringing an action to enforce the terms of this Agreement. D.Z.'s herein waiver of claims specifically excludes any and all claims of D.Z. has or may have against Yale.

5. D.Z., and/or any persons or entity acting on D.Z.'s behalf, agree that they waive any and all rights to file any suit, or cause any suit, demand, administrative, judicial or other proceeding, claim, complaint or other action of any kind against Audubon and/or its officers, agents, employees or assigns based upon any set of facts which occurred or may occur from the beginning of time through to the date upon which this Agreement is incorporated into a Final Decision and Order by Judge Bogan. D.Z. further understands and agrees that in signing this Agreement and accepting the monetary consideration described above, D.Z. hereby forever relieves and releases Audubon from any responsibility and/or liability, educational or otherwise. This waiver of claims specifically excludes any and all claims D.Z. has or may have against Yale.

6. Audubon's obligation set forth in this Agreement is subject to an Administrative Law Judge approving the terms of the settlement in accordance with N.J.A.C. 6A:14-6.5(c). Audubon agree to submit this Agreement to the OAL with its Board Resolution for approval in full settlement of all issues pertaining to D.Z.'s program and placement, claims for reimbursement, and any issues that were or could have been

raised in a petition for a due process hearing, as well as any and all claims, past, present or future, from the beginning of time through to the date upon which this Agreement is incorporated into a Final Decision and Order by Judge Bogan. If approved, this Agreement will be incorporated into a Final Enforceable Decision and Order by Judge Bogan.

7. Neither the execution nor terms of this Agreement shall be construed as an admission by Audubon of any liability and/or wrongdoing, including any and all claims that were or could have been brought by D.Z. in this due process petition and the GRC complaint. This waiver of claims specifically excludes any and all claims D.Z. has or may have against Yale.

8. The undersigned represent that they have the requisite authority to sign this Agreement on behalf of the respective party.

9. The parties acknowledge that they have consulted with legal counsel and/or their representative throughout the negotiation of this Agreement, and that they fully understand its requirements and limitations.

10. This Agreement is subject to ratification by the Audubon Board of Education, and is without prejudice to any party if the terms are not agreed upon. The representatives of the District shall recommend the terms of this settlement to the Board for approval at its next regularly scheduled meeting. In the event that this Agreement is

not approved by the Board, this Agreement shall be inadmissible in any legal proceeding between the Parties and neither party shall be bound to same. Approval of this Agreement shall be evidenced by a certified copy of the Agreement and its Resolution passed by the Board and transmitted by the Board to ALJ Bogan to be incorporated into the Final Enforceable Decision.

11. The Parties hereby affirm that they sign the within Agreement as their own voluntary act and deed, and that they understand the duties and obligations enumerated herein. The Parties further state that they are fully satisfied with the legal representation provided by their respective counsel.

12. Except as set forth in Paragraph Two above, the parties agree to bear their own attorney fees and costs and agree that neither qualifies as a "prevailing party" under the law.

13. This Agreement contains the entire agreement between the parties hereto, is not to be modified without subsequent written consent from both parties, and is intended to resolve any and all disputes and issues, known or unknown, between them as of the date of execution of this Agreement.

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

DATED: 6/10/19

Dom Zerm

Petitioner D.Z.

DATED: 6/12/19

By: Deborah J. Roncace

Deborah Roncace
School Business Administrator
Audubon Board of Education

DATED: 6/12/19

By: Marianne Brown

Marianne Brown
Board President
Audubon Board of Education