

KENNEY, GROSS, KOVATS AND PARTON

The Courts of Red Bank, Bldg. 8
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 Attorneys for Respondent

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| <p>D.S. and S.S. o/b/o S.S.</p> <p style="text-align: center;">Petitioners,</p> <p>v.</p> <p>RANDOLPH TOWNSHIP BOARD OF EDUCATION, MORRIS COUNTY</p> <p style="text-align: center;">Respondent.</p> | <p>STATE OF NEW JERSEY OFFICE OF ADMINISTRATIVE LAW</p> <p>OAL Docket No. EDS 3139-09 AGENCY REFERENCE NO: 2009-14325</p> <p><u>STIPULATION OF SETTLEMENT AND DISMISSAL</u></p> <p>Before the Hon. Maria M. LaFiandra, ALJ</p> |
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The Randolph Township Board of Education (the “District”) having its administrative offices at 25 Schoolhouse Road, Randolph, New Jersey 07869 and D.S. and S.S. (the “Petitioners” or “Parents”), residing at _____desiring to settle this special education mediation/due process matter in an amicable and mutually satisfactory manner, hereby set forth their full and complete agreement as follows:

WITNESSETH

WHEREAS, S.S. is a minor child who is classified as _____and is eligible for special education and related services; and

WHEREAS, Petitioners currently reside in Randolph Township, New Jersey; and

WHEREAS, the Randolph Township School District (the “District”) is charged with the operations of the public schools of the Randolph Township School District, County of Morris, a K-12 school system, pursuant to Title 18A of the New Jersey Statutes; and ;

WHEREAS, S.S. is a tenth grade student who was previously in attendance at Randolph Township High School, Randolph, New Jersey, pursuant to his current IEP; and

WHEREAS, Petitioners unilaterally placed S.S. at the _____; and

WHEREAS, Petitioners have informed the School District that the _____
_____program has a maximum duration of fourteen (14) months and, therefore, that S.S.’ placement there will end not later than August of 2009; and

WHEREAS, the District and Petitioners have been in continuing disagreement regarding the program to be provided to S.S.; and

WHEREAS, the parties, having entered into discussions at mediation on February 26, 2009 with mediator Kim Franklin and before the Hon. Maria M. Lafiandra, ALJ, on March 11, 2009, to seek an amicable resolution to this dispute, have reached an agreement to settle the above-referenced due process matter on the terms as follows:

NOW, THEREFORE, for the considerations specified below, the parties set forth the following mutual covenants and agreements:

1. The District hereby agrees to reimburse Petitioners for the educational costs incurred in connection with S.S.’ placement in _____in the amount of \$5,200 per month for the period from August 28, 2008, until the conclusion of S.S.’ placement at _____or August 31, 2009, whichever comes sooner. The final monthly payment shall be prorated if appropriate.

2. Petitioners shall be paid for all costs incurred prior to the ratification of this Agreement upon submission of appropriate documentation of costs and within ten (10) days of the issuance of a Settlement Order in this case. Respondent School District shall submit the fully executed Agreement and a certified copy of Board Minutes evidencing Board approval of the Settlement within ten (10) days of Board action to ratify the Settlement. In order to expedite the payment process, Petitioners may present their claims and supporting documentation upon notification of Board ratification. The School District shall thereupon provide Petitioners with the appropriate voucher form for payment.

3. Payments for subsequent months shall be made within five (5) days of Respondent Board's regular monthly meeting, provided that fully documented claims are submitted by the 27th day of the month preceding the Board meeting.

4. Petitioners agree to immediately notify the District if and when there are any changes in S.S.'s circumstances, condition, diagnosis and/or placement.

5. In anticipation of the possibility that S.S. may require a new placement at the completion of his time at _____, the Petitioners agree to make S.S. available for interview(s) with the School District's designated psychiatrist. It is further agreed that, in the event that S.S.'s current placement will not permit him to meet with the School District's psychiatrist on or before June 30, 2009, he will be made available for telephone interviews with the psychiatrist. It is further agreed that the Petitioners will provide the School District's designated psychiatrist with all relevant medical/psychiatric records and reports and to execute the appropriate releases permitting Respondent's designated psychiatrist to speak with the preparers of those records and reports and the staff at _____. The Petitioners shall make every effort to make those persons available to speak with the psychiatrist.

6. Petitioners also agree to make themselves available to the School District Child Study Team for updating of his December 2007 evaluation.

7. Upon completion of the re-evaluation, the parties shall meet to develop a new placement and Individualized Educational Plan for S.S. by June 30, 2009.

8. Petitioners agree to waive any and all claims to damages, expert costs, attorneys' fees and reimbursement of any other fees and expenses incurred in connection with this action and/or S.S.' program up to the date of the execution of this Settlement Agreement. Petitioners agree to waive any right to pursue reasonable attorneys' fees and cost pursuant to the IDEA, 20 U.S.C. § 1415(e)(4), § 615(i), Rehabilitation Act of 1973, 29 U.S.C. § 701 *et. seq.*, as well as all other federal and state statutes providing for the reimbursement of reasonable attorneys' fees and costs related to Petitioners' request for due process.

9. This Settlement Agreement shall not constitute, be interpreted, construed or used as evidence of any admission of fact, law, responsibility, wrongdoing or liability on the part of the Respondent District or the Petitioner Parents and shall not be referred to in any subsequent proceedings by any party other than to enforce its terms. In the event that this Settlement Agreement is not fully executed and approved by all parties hereto, it shall become null and void and shall neither constitute an admission of any party nor be referred to by any party in any subsequent legal proceeding for any purposes whatsoever.

10. This Agreement shall be subject to and contingent upon ratification and approval by the Randolph Township Board of Education in open public meeting and shall, if approved, be executed on behalf of the Board.

11. Petitioners acknowledge that they have been represented by and have consulted with legal counsel throughout the negotiations of this Settlement Agreement and that they have

reviewed this Settlement Agreement in detail and fully understand its requirements and limitations.

12. Petitioners hereby state that they are signing this Settlement Agreement voluntarily of their own free will and not under duress or coercion of any kind.

13. This Settlement Agreement shall be construed fairly according to the plain language of its terms and not for or against any party hereto.

14. If, during the term of this Settlement Agreement, it is found that a specific clause or clauses of the Agreement is/are illegal under Federal or State law, then the remainder of this Settlement Agreement not affected by Federal or State ruling shall remain in full force and effect.

15. All parties are bound by this Settlement Agreement and each of its provisions. Anyone who succeeds to the rights and responsibilities of Petitioners or their son, S.S., such as their successors and assigns, are also bound.

16. In further consideration for this Settlement Agreement, Petitioners and Respondent District agree that, following the full execution of this Agreement, they will keep all terms of this Agreement completely confidential. Notwithstanding anything to the contrary herein, it is expressly understood and agreed that, following the full execution of this Settlement Agreement, neither Petitioners, the Respondent District, the Respondent District's staff, nor their attorneys will take any action to publicize the terms and nature of this Settlement Agreement, except that disclosure is permitted: (1) as necessary with regard to any proceedings for the enforcement of the Settlement Agreement; (2) to the student's immediate family, attorneys, agents and pertinent Respondent District staff, who shall agree not to disclose the facts of or any

of the terms of this Settlement Agreement as if they were a party to it; (3) as may be required by any court of agency of competent jurisdiction; and (4) as may be required by law.

17. The Settlement Agreement contains the full and complete agreement of the parties hereto with respect to its subject matter, that it supercedes any prior or contemporaneous representations, whether oral or written, and that it may not be modified or amended except by a written instrument signed by all parties hereto.

18. In consideration for the above, Petitioners agree that the terms of this Settlement Agreement shall constitute a full and complete settlement of all claims they have made or could have made, individually or jointly, in the above-captioned Due Process proceeding against the Randolph Township School District.

19. In consideration for the above, the Respondent District agrees that the terms of this Settlement Agreement shall constitute a full and complete settlement of all claims it made or could have made, individually or jointly, in the above-captioned Due Process proceeding against Petitioners.

20. Petitioners agree to accept the above-cited conditions in return for a full release of the claims set forth in the request for mediation/due process, Agency Reference Number _____
_____.

IN WITNESS WHEREOF, the undersigned put their signatures on this _____ day
of May 2009.

FOR PETITIONERS:

FOR RESPONDENT:

D.S.

Superintendent of Schools

DATED: _____

DATED: _____

S.S.

School Business Administrator

DATED: _____

DATED: _____