

SETTLEMENT AGREEMENT RELEASE AND WAIVER

The parties to this Settlement Agreement, Release and Waiver ("Agreement") are _____ on their own behalf and on behalf of their minor daughter, _____ (referred to collectively hereafter as _____ and the Brecksville-Broadview Heights City School District Board of Education, including all of its current and former members, officers, employees and agents, in both their individual and official capacities (hereinafter collectively referred to as "the Board").

WHEREAS, the _____ and the Board of Education disagree regarding the provision of a free appropriate public education ("FAPE") to _____ for the 2017-18 school year under the Individuals with Disabilities Education Improvement Act ("IDEA"), 20 U.S.C. §§ 1400, *et seq.*; and

WHEREAS, the parties to this Agreement desire to settle all matters in controversy between them as of the date of this Agreement;

NOW THEREFORE, in consideration of the mutual promises as set forth below, the parties to this Agreement agree for themselves and on behalf of their heirs, successors, assigns, agents and employees as follows:

- I. Placement at CCCA. The parties agree that _____ will attend the Cleveland Clinic Center for Autism/Lerner School ("CCCA") for the 2017-18 school year (including the summer of 2018) under the following arrangement:
- A. The Board shall be responsible for paying _____ tuition to CCCA in an amount not to exceed \$77,700.00. Any costs in for _____ program at CCCA in excess of this amount shall be the financial responsibility of the _____. Parents agree to provide all necessary invoices and authorizations to allow the District to pay CCCA directly. The District intends to make three (3) payments in the amount of \$25,900 to CCCA. These payments will be made on or about September 1, 2017 January 1, 2018, and May 1, 2018.
 - B. The parties agree that the Board shall not be responsible for transporting _____ to and from CCCA for the duration of this Agreement and that transportation is the sole responsibility of the _____.
 - C. The _____ understand and agree that payment of a portion _____ tuition at CCCA for the time period set forth above shall be contingent on the following:
 - (1) that the _____ continue to reside within the boundaries of the Brecksville-Broadview Heights City School District;
 - (2) that the _____ continue _____ enrollment as a student in the Brecksville-Broadview Heights City School District;
 - (3) that the _____ continue _____ enrollment at CCCA;

(4) that the _____ refrain from applying for the Autism Scholarship Program or the Jon Peterson Scholarship Program; and

(5) that the _____ comply with all provisions of this Agreement.

Should any of the above-referenced conditions not be met, the Board shall have no obligation for any further tuition payments under this Agreement. Specifically, if any condition above is not satisfied, the District's liability to make the payments specified in Paragraph I.A. will be prorated in accordance with those periods of time the _____ met these requirements.

II. 2017-18 IEP and Responsibility for _____ Educational Program. Parents affirm they selected CCCA, and it was not determined by the District to be _____ least restrictive environment. The parties agree that while _____ attends school at CCCA under the auspices of this Agreement, the Board shall not be responsible for the development and implementation of her IEP or any aspect of her educational program. The Board shall not be responsible for the efficacy of the program. _____ will be attending at CCCA, and parents agree that they shall have no right to seek compensatory education or other relief from the District as a result of any real or perceived failures by CCCA.

III. Release of Information and Participation by Board of Education. The parties agree that the Board may remain involved in _____ educational program, and to facilitate this, the _____ agree as follows:

A. By signing this Agreement, the _____ consent to the release of _____ educational records/information from CCCA to the Board and to regular observations of _____ at CCCA by educators from Brecksville-Broadview Heights to enable _____ Brecksville-Broadview Heights IEP team to determine _____ progress and evaluate her specific levels of performance to facilitate the development of _____ IEP for the 2017-18 school year. Should it be necessary, the _____ will provide a signed release of information to CCCA allowing the Board of Education to receive educational records from CCCA (including, but not limited to, all programming data, assessments, consultant's reports, and evaluations) and to observe _____ at CCCA. The parties understand and agree that it may be necessary for Brecksville- Broadview Heights to receive approval from CCCA to observe _____ at CCCA. The _____ Family agrees to take any actions necessary to assist Brecksville-Broadview Heights in obtaining approval from CCCA for these observations.

B. The _____ agree to provide, on a quarterly basis, a copy of _____ progress reports and grade reports to Brecksville-Broadview Heights's Director of Pupil Services. The _____ will ensure that all educationally relevant information provided to them by CCCA will be disclosed to the Board of Education through Brecksville-Broadview Heights's Director of Pupil Services, and will work with Brecksville-Broadview Heights's Director of Pupil Services in obtaining such information from CCCA.

- C. The parties agree that the Board of Education shall be given the opportunity to participate in all IEP meetings and progress review meetings held by CCCA with the _____. The _____ shall be responsible for providing notice of these meetings to Brecksville-Broadview Heights's Director of Pupil Services within three (3) days of the _____ receipt of notice for each meeting. At the _____ option, this notification may be sent directly to Brecksville-Broadview Heights's Director of Pupil Services by CCCA. This requirement will be waived only in the event of an emergency that necessitates an immediate meeting. In such an instance, the _____ agree to notify Brecksville-Broadview Heights's Director of Pupil Services about the meeting as soon as possible.
- D. Parties shall meet by May 22, 2018, to develop a 2017-18 IEP for _____. The Parties agree to work cooperatively and in good faith to develop the 2017-18 IEP. During the IEP team meeting, in addition to developing goals and objectives, and identifying appropriate special education and related services, the Team will consider placement options for _____.

IV. Stay Put. The _____ understand and agree that _____ placement at CCCA for purposes of this Agreement is not deemed "stay put"; rather, it is a compromise placement for purposes of EMIS reporting. _____ stay-put placement shall be the placement recommended by the members of her IEP team from the Brecksville Broadview Heights City School District upon her return to the District. This means that if the _____ subsequently challenge _____ educational placement or eligibility via a due process proceeding, her stay put placement shall be the placement recommended by the members of the team from the District and there shall be no entitlement to continue placement at CCCA or any other program during the pendency of any dispute, unless reimbursement is ordered as an appropriate remedy by a State Level Review Officer. The _____ retain all due process rights with the placement decision regarding the 2017-18 school year.

V. Non-Admission of Liability. The _____ understand and agree that payment of the aforesaid consideration does not constitute and may not be used as an admission by the Board of any wrongdoing or failure or alleged inability to provide _____ with a free appropriate public education in accordance with federal and state law. Rather, the _____ and the Board are entering into this Agreement solely for the purpose of avoiding protracted, vexatious, and expensive litigation.

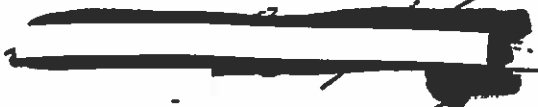
VI. The payments identified in Paragraph I.A shall be made within twenty (20) business days of the District's Director of Pupil Services receiving the relevant documentation. The _____ specifically waive any right to interest or late fees on the amount of settlement for any delay in payment from the date of settlement until the date payment is due in accordance with the terms of this Agreement, and specifically release and discharge the District and Britton Smith Peters & Kalail Co., L.P.A., including all of their predecessors, successors, assigns, officers, employees and agents, and each of them, in both their individual and official capacities, from any claim or demand for interest on the settlement amount to which the Parent may or may not otherwise be entitled in accordance with *Hartmann v. Duffey*, 95 Ohio St.3d 456 (2002).

- VII. **Release of Claims.** _____ do hereby forever release and discharge the Board from any and all claims, demands, actions, causes of action or suits at law or in equity, of whatsoever kind or nature, which the _____ may have had, now have, or may now or hereafter assert against the Board, growing out of or resulting from the Board's provision to _____ of a free appropriate public education for the entire period prior to the execution of this Agreement and through the 2017-18 school year (including the summer of 2018). This Agreement includes the release of, but is not limited to, all claims arising under the Individuals with Disabilities Education Improvement Act ("IDEA"), 20 U.S.C. §§ 1400 *et seq.*; Section 504 of the Rehabilitation Act, 29 U.S.C. § 794; the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12101 *et seq.*; Section 1983 of the Civil Rights Act, 42 U.S.C. § 1983; Ohio Revised Code Chapter 3323; related federal and state regulations and any other applicable federal, state or local laws or regulations relating to the Board's provision of an _____ receipt of a free appropriate public education and claims for attorney fees, costs or expenses, including without limitation any out-of-pocket or other costs related to _____ educational services and evaluations prior to and through the end of the 2017-18 school year (including the summer of 2018).
- VIII. **Effect of Agreement.** In the event the _____ do not agree to _____ entering the program to be offered by the Board of Education following the 2017-18 school year, or in the event of a dispute regarding _____ program in any subsequent school year, this Agreement may be introduced only by way of background and shall not be considered in any way relevant to the issues of the Board's ability to provide a free appropriate public education for _____.
- IX. **Confidentiality.** The parties agree to keep the terms of this Agreement strictly confidential to the fullest extent permitted by law. The _____ agree not to disclose to any individual or entity (including but not limited to individuals at CCCA, friends, colleagues, other parents), other than their legal counsel, members of their immediate family or as required by law, the existence of or terms and conditions of this Agreement. The _____ may disclose limited information about this Agreement to CCCA solely for the purpose of arranging for invoices to be sent to the Board. The _____ understand and agree that if this confidentiality provision has been breached by them or members of their immediate family who are privy to the existence and terms of this Agreement, no further tuition payments will be made to CCCA under the terms of the Agreement as of the date of the breach.
- X. The Parties agree that the provisions of this Agreement can only be modified in writing.
- XI. **Acknowledgement.** The parties acknowledge they have read this Agreement and fully understand its provisions. They further acknowledge they have had the opportunity to consult with legal counsel of their choosing and declare and acknowledge that no promises or agreements not hereby expressed or contained herein have been made to them, and that this Agreement contains the entire agreement between the parties hereto. The Parties affirm they are signing this Agreement of their own free and voluntary will.
- XII. This Agreement is comprehensive with respect to the sums to be paid to the benefit of Parents, and Parents and their attorney(s) agree that they shall make no application to a court for, or in any other manner seek fees and/or costs in connection with the Parties'

disagreement concerning Student's education and/or placement during the 2017-18 school year. Except as provided in this Agreement, the Parties shall bear their own costs in connection with this matter.


On her own behalf and on behalf
Of her daughter 

6-24-17
Date


On his own behalf and on behalf
Of his daughter 

6/24/17
Date

Joelle Magyar
Superintendent
On behalf of the Board of Education
Of the Brecksville-Broadview Heights City School District

Date

Richard A. Berdine
Treasurer
On behalf of the Board of Education
Of the Brecksville-Broadview Heights City School District

Date