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August 14, 2013

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**VIA FAX: 267.299.5078**

Honorable Michael M. Baylson  
United States District Judge  
United States Courthouse  
601 Market Street, Room 8614  
Philadelphia, PA 19106

**Re: Chester Upland School Dist., et al. v. Commonwealth of  
Pennsylvania, et al., No. 12-132**


Dear Judge Baylson:

Attached hereto is a conformed copy of the Compensatory Education Agreement for 2012-13 School Year entered into today by the Intervening Plaintiffs and the Chester Upland School District. The parties request the Court to approve the agreement for the purpose of extending the court's jurisdiction to ensure compliance pursuant to paragraph 9. The Intervening Plaintiffs have agreed to seek the withdrawal of their June 28, 2013 Motion for Enforcement of Settlement Agreement and copies of a motion and order to that effect will be filed with the Court promptly.

We believe the court will be interested to know that class counsel calculate that between the May 28, 2013 Compliance Agreement already approved by the Court and this Compensatory Education Agreement, class members will have access to more than 20,000 hours of compensatory education services.

We appreciate greatly the cooperation of all of the parties and their counsel in the negotiation of these agreements.

Very truly yours,

  
Michael Churchill  
Sonja Kerr  
*Counsel to TF and the Class*

Cc: Leo Hackett, Esq.  
Michael Finio, Esq.

**COMPENSATORY EDUCATION AGREEMENT**  
**FOR 2012-2013 SCHOOL YEAR**

This Compensatory Education Agreement between Chester Upland School District (the “District”) and T.F. on behalf of herself and the certified class of parents pursuant to the Court Order of May 8, 2012 (“Intervening Plaintiffs”), entered into this 14th day of August, 2013.

WHEREAS, a Settlement Agreement in Civil Action No. 12-0132 in the Eastern District of Pennsylvania was approved by the Court on August 15, 2012; and

WHEREAS, the District and Intervening Plaintiffs entered into a Compliance Agreement on or about May 23, 2013 relating to compensatory education for the 2011-2012 school year; and

WHEREAS, the Intervening Plaintiffs have asserted a claim for compensatory education for class members for the 2012-2013 school year which claim was formalized with the Court in their Motion for Enforcement of the Settlement Agreement of June 28, 2013, document no. 275, which claim is based primarily upon a lack of the sufficiency of progress reports for students with disabilities in the District during the school year; and

WHEREAS, the District has disputed that there is a systemic lack of or sufficiency of progress reports for students with disabilities in the District as of the end of the 2012-2013 school year and the date of the filing of the Petition for Enforcement of the Settlement Agreement as well as the lack of jurisdiction of the Court to hear individualized claims for compensatory education for the 2012-2013 school year by reason of such progress report issues; and

WHEREAS, the parties desire to avoid the cost of additional litigation in this matter and desire to devote the financial and personnel resources of the District toward providing and improving the delivery of services to students with disabilities in the District; and

WHEREAS, the parties have arrived at a satisfactory method to address the issue of compensatory education for members of the class for the 2012-2013 school year subject to the terms and conditions set forth herein.

NOW THEREFORE, intending to be legally bound, the District and the Intervening Plaintiffs agree as follows:

1. For students identified as students with disabilities in the District entitled to receive special education programming and related services during the 2012-2013 school year and for which students received no progress report, or received a progress report that was incomplete or conclusory for at least two (2) consecutive quarters (marking periods) of the 2012-2013 school year, each such student shall be entitled to the availability of thirty (30) hours of tutoring services from any provider on the list attached as Exhibit "A" or from CUSD staff.

2. For those students identified as students with disabilities entitled to receive a special education program or related services during the 2012-2013 school year and for whom the progress reports show "no progress" for at least two (2) consecutive quarters (marking periods) of the 2012-2013 school year, such student shall be entitled to sixty (60) hours of tutoring services from any provider on the list attached as Exhibit "A" or from CUSD staff.

3. Students identified as entitled to compensatory education services under paragraph 2 of this Agreement shall not also be eligible for such services under paragraph 1 above.

4. The District will provide the 4<sup>th</sup> quarter progress reports to Class Counsel and a list of the students eligible under paragraphs 1 and 2 above. This Agreement is conditioned upon the parties agreement to the respective lists.

5. Parents will be notified of the availability of compensatory education pursuant to this Agreement through a NOREP to be issued in conjunction with the Notice as provided in the Compliance Agreement of May 23, 2013, which Notice shall be provided no later than August 30, 2013.

6. Students will be able to access the compensatory services appropriate to them during the 2013-2014 and 2014-2015 school years.

7. The District will provide the compensatory education services provided for herein by the District staff or to be available from a licensed or certified providers.

8. The provision of these services are without waiver of any right of a parent to proceed via a due process hearing to seek additional compensatory education except as agreed to in the NOREP, and does not constitute a reduction in any IEP services previously agreed to by the IEP Teams during the 2012-2013 school year. However, the District reserves the right to claim that this agreement satisfies such claim or for a credit or set off for the compensatory education hours provided for herein against any additional compensatory education awarded to a student.

9. The Court will retain limited jurisdiction to review any alleged systemic class-wide failure to comply with this Compensatory Education Agreement for 2012-13 School Year by the District during the period that the compensatory education services are to be available. Individual claims of compensatory education related to the services provided for herein or other disputes under this Agreement will be under the exclusive jurisdiction of other Courts or the IDEA due process procedure through the Office for Dispute Resolution of the

Commonwealth of Pennsylvania. Neither this provision nor the Compensatory Education Agreement shall extend the date for the expiration of the Court's jurisdiction over the original Settlement Agreement pursuant to paragraph II.H. of the Settlement Agreement approved by the Court on August 15, 2012.

10. The Intervening Plaintiffs, by and through their attorneys, will amend their Motion for Enforcement of the Settlement Agreement to withdraw all claims with prejudice including any claims for attorney's fees and costs arising out of and related to the filing of this Motion for Enforcement of the Settlement Agreement as well as Plaintiff Class's Motion for Enforcement filed on March 8, 2013, document no. 254, which issues have been resolved.

**CHESTER UPLAND SCHOOL DISTRICT**

BY: \_\_\_\_\_  
LEO A. HACKETT, ESQUIRE  
Solicitor for Chester Upland School District

DATE: \_\_\_\_\_

**T.F., et al**

BY: \_\_\_\_\_  
MICHAEL CHURCHILL, ESQUIRE  
Attorney for T.F., et al

DATE: \_\_\_\_\_

APPROVED, by the Court as to retaining limited jurisdiction under paragraph 9 only.

\_\_\_\_\_  
J.

Exhibit "A"

2012 PA State Approved Supplemental Education

Agency Name	Contact Phone
1 in Learning	(866) 698-6537
A Plus Test Prep and Tutoring	215-886-9188
ACES	(267) 591-9433
Achieve HighPoints	(215) 760-1857-223
Achievers Learning Zone	(800) 515-1720-3
All About Children	847-312-0654
AMERICAN TUTOR, INC.	908-281-0050
A Plus Success	(703) 566-9533
Arline Institute	(856) 583-1130
ATS Project Success	586-465-9474
Attain Learning Centers	(717) 730-7070
Bright Light Education	(201) 345-7135
Catapult Learning	(401) 330-7303
Christanson Tutorials, LLC	(610) 457-5288
Dynamic Tutor Ser./Club Z	(610) 296-5273
Hero, Inc	(215) 223-5881
Huntington Learning Center	610-690-4460
Icon Designers, LLC	(267) 577-5559
Learning Alliances	908-630-9600
Inst for EconDev/Chldr	215-844-7758
Kanmas Educational Support	724-493-9371
Khepera Early Learning Acad	(215) 887-6057
Knowledge Point	610-490-0800
Learn-It Systems, LLC	410-369-0000 x124
Michael Anderson Learning	(267) 718-7300
One On One Tutoring Serv	(215) 842-0400
Overbrook Learning Center	(215) 877-8801
Reach for Tomorrow	(703) 818-1425
Right Reason Technologies	(877) 778-8277
Rocket Learning	(646) 784-5602
Smiles Are Free Enrichment	215-474-3085
Somali Bantu Youth and	(877) 771-5322
Sylvan Learning Center	(215) 238-8320
Tutoring Company	215-681-5248
The Art of Learning	(302) 397-7522
The Right Prep, LLC	301-288.7830
Today's Child Learning Ctr	(610) 291-7080
Tutorial Services	734-470-6387