

BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of a proposed Act, which if enacted by the Board, would authorize the County to enter into a Stipulation of Settlement in the Matter of the Application of J.D.M., by his parents, J.M. and K.M. against Somers Central School District (“Stipulation”), pursuant to which the County shall make payment to the Somers Central School District (“School District”) in the amount of \$24,619.00.¹

The name of the child participant of the Preschool Special Education Program has been deleted from the caption of the action and the initials “J.D.M.” appear in lieu thereof to maintain his right to privacy as guaranteed by federal and state law. The names of the parents of J.D.M. have similarly been deleted and replaced with “J.M.” and “K.M.” in furtherance of maintaining the confidentiality of the child participant.

The above-referenced matter was commenced by the Impartial Hearing Demand of J.M. and K.M. (“J.D.M.’s parents”) on behalf of their developmentally disabled son, J.D.M., pursuant to, *inter alia*, the Individuals With Disabilities Education Act (“IDEA”), the New York State Education Law, Rehabilitation Act, etc. During the 2018-2019 and 2019-2020 school years and summer 2020, J.D.M. was a preschooler and participant in the Preschool Special Education Program, a program administered by the School District and funded by the County through its Department of Health (“WCDOH”). The Preschool Special Education program entitles children with developmental disabilities, who are found to be eligible, to many developmental services from the age of three to age five.

¹ The use of initials herein is to maintain the confidentiality and privacy of the Preschool Special Education program participant and members of the participant’s family.

J.D.M.'s parents claim that both the School District and WCDOH failed to provide an appropriate Preschool Special Education Program for J.D.M., thereby requiring them to secure and personally fund physical therapy, occupational therapy, speech/language therapy and psychological services.

The impartial hearing in this matter was adjourned to accommodate settlement negotiations between Peter D. Hoffman, Esq., attorney for J.D.M.'s parents, and Ralph C. DeMarco, Esq., attorney for the School District. Mr. DeMarco contacted WCDOH in an effort to settle all claims J.D.M.'s parents may have against both the School District and the County. On behalf of WCDOH, the County Attorney's Office participated in the settlement negotiations and assisted in drafting the Stipulation, specifically, those portions relating to the County.

Subject to the approval of your Honorable Board, the Stipulation state, *inter alia*, that in consideration of J.D.M.'s parents discontinuing their demand for an impartial hearing, withdrawing their Due Process Complaint Notice dated September 1, 2020 with prejudice, and in full and final satisfaction of any and all claims J.D.M.'s parents may have against the County stemming from J.D.M.'s participation in the Preschool Special Education Program, the County shall pay the sum of \$24,619.00 to the School District, which will in turn pay said amount to J.D.M.'s parents.²

WCHOH agreed to payment in the amount of \$24,619.00 which reflects the total cost of services paid by J.D.M.'s parents. Those services were in J.D.M.'s IEP for the 2019 and 2020 school years. In addition, the County has agreed to provide additional services in J.D.M.'s IEP

² The Stipulation requires that payment is made by the County to the School District rather than directly to J.D.M.'s parents, since the County, in the usual course, remits payment to the School District for the Preschool Special Education Program and the School District administers the funds.

on a going forward basis. The WCDOH is statutorily mandated under New York State Education Law §4410 to fund the services included in J.D.M.'s IEP. The parents agreed to these terms and signed a release in connection with these services.

Your Committee has carefully considered the subject matter, the settlement proposal, the attached Act and recommends authorizing the County Attorney or his designee to enter into the Stipulation, pursuant to which the County shall make payment to the School District in the amount of \$24,619.00 and provide compensatory/makeup services. An affirmative vote of a majority of the Board is required to pass this legislation.

Dated: White Plains, New York
March 7, 2022

Samuel Bar
Samuel Bar
J. H. L.
Vedat Jasiri
Arthur B.
Arthur B.

Budget & Appropriations

Samuel Bar
Vedat Jasiri
Arthur B.
Arthur B.

Law & Major Contracts

COMMITTEE ON

Dated: March 7, 2022
White Plains, New York

The following members attended the meeting remotely, as per Governor Cuomo's Executive Order 202.1 and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below

COMMITTEES ON

<i>Mary Jane Skimsky</i>	<i>Mary Jane Skimsky</i>
<i>Catherine F. Parker</i>	<i>Catherine F. Parker</i>
	<i>David A. Jubilo</i>
	<i>[Signature]</i>

Law & Major Contracts

Budget & Appropriations

FISCAL IMPACT STATEMENT

SUBJECT: JDM Settlement

NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ 24,619

Total Current Year Revenue _____

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations

Other (Revenue)

Identify Accounts: 101-27-2700-2752-4535

Potential Related Operating Budget Expenses: Annual Amount _____

Describe: _____

Potential Related Operating Budget Revenues: Annual Amount _____

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: _____

Next Four Years: _____

Prepared by: Michael Dunn

Title: Assistant Budget Analyst

Department: Budget

Date: February 3, 2022

Reviewed By: 

Budget Director

Date: 2/3/22

ACT NO. 13 -2022

AN ACT authorizing the County Attorney to enter into a Stipulation of Settlement in the Matter of the Application of J.D.M., by his parents, J.M. and K.M. against Somers Central School District (“Stipulation”), pursuant to which the County shall make payment to the Somers Central School District (“School District”) in the amount of \$24,619.00.

BE IT ENACTED by the Board of Legislators of the County of Westchester as follows:

Section 1. The County Attorney is authorized to enter into a Stipulation of Settlement in the Matter of the Application of J.D.M., by his parents, J.M. and K.M. against Somers Central School District (“Stipulation”), pursuant to which the County shall make payment to the School District the amount of \$24,619.00 and provide compensatory/makeup services to J.D.M.¹

Section 2. The County Attorney or his designee is hereby authorized and empowered to execute and deliver all documents and take such actions as the County Attorney deems necessary or desirable to accomplish the purpose of this Act.

Section 3. This Act shall take effect immediately.

¹ The Stipulation requires that payment is made by the County to the School District rather than directly to J.D.M.’s parents, since the County, in the usual course, remits payment to the School District for the Preschool Special Education Program and the School District administers the funds.

STATE OF NEW YORK)
) ss.
WESTCHESTER COUNTY)

I HEREBY CERTIFY that I have compared the foregoing Act, Act No. 13 - 2022, with the original on file in my office, and that the same is a correct transcript therefrom, and of the whole, of the said original Act, which was duly adopted by the County Board of Legislators, of the County of Westchester on March 7, 2022, and approved by the County Executive on March 8, 2022.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 9th day of March, 2022.



Malika Vanderberg

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York

