UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

C.P., individually and on behalf of F.P., a minor child; D.O. individually and on behalf of M.O., a minor child; S.B.C., individually and on behalf of C.C., a minor child; A.S., individually and on behalf of A.A.S., a minor child; M.S., individually and on behalf of her minor child, H.S.; Y.H.S., individually and on behalf of his minor child, C.H.S.; E.M. on behalf of her minor child, C.M.; M.M., individually and on behalf of K.M.; L.G., individually and on behalf of her minor child, T.M.; E.P., individually and on behalf of her minor child, Ea.P.; and on behalf of ALL OTHERS SIMILARLY SITUATED, Plaintiffs, v. NEW JERSEY DEPARTMENT OF EDUCATION; DR. LILY LAUX, Commissioner of Education, in her official capacity, Defendants.	Civil Action No. 19-cv-12807-ESK-MJS Edward S. Kiel, U.S.D.J. Matthew J. Skahill, U.S.M.J. **ORDER GRANTING MOTION TO AMEND CONSENT ORDER AND SETTLEMENT AGREEMENT AND REQUESTING APPOINTMENT OF A SPECIAL MASTER**

WHEREAS, by Order dated April 11, 2024 (ECF No. 569), the Court approved a Consent Order and Settlement Agreement (Original Consent Order) in the above captioned action, *C.P. v. New Jersey Dep't of Educ.*, Case No. 19-cv-12807 (the Action), to address systemic violations of timelines for due process hearings under the Individuals with Disabilities Education Act (IDEA), and

certifying a Rule 23(b)(2) Class and a Rule 23(b)(3) Issues Class (collectively, the Classes);

WHEREAS, the Court retained jurisdiction over the Action until termination of the Original Consent Order, for the purpose of resolving disputes arising under the Order or modifying the Order, or effectuating or enforcing the Order, ECF No. 569 ¶ 10;

WHEREAS, changed circumstances warrant modification of the Original Consent Order to provide for appointment of a Special Master pursuant to Fed. R. Civ. P. 53 to benefit members of the Rule 23(b)(2) Class;

WHEREAS, the Parties have filed a Joint Motion to Amend Consent Order and Settlement Agreement (Amended Consent Order) and Request Appointment of a Special Master;

WHEREAS, the relief afforded to the Rule 23(b)(3) Issues Class in the Original Consent Order is fully preserved without modification;

WHEREAS, the Court has presided over the proceedings in this Action and has reviewed the pleadings and papers on file, and being duly advised in the premises,

IT IS HEREBY ORDERED AS FOLLOWS:

1. Unless otherwise stated, the terms in this Order have the meaning set forth in the Original Consent Order or the Amended Consent Order.

2. This Court has jurisdiction over the subject matter of the Action and personal jurisdiction over the Plaintiffs, the Class Members, and the Defendants.

3. Because the Amended Consent Order has no material adverse effect on the Rule 23(b)(2) Class and, in fact, provides many additional benefits, the Court finds that notice to represented parties through electronic docketing, posting on the class action website and New Jersey Department of Education website, and service upon counsel for *Amici Curiae* constitutes sufficient notice of the Motion to Amend. *In re Diet Drugs Prods. Liab. Litig.*, 93 F. App'x 338, 340, 344 (3d Cir. 2004) (notice of amendment of class action settlement within sound discretion of district court); *Brown v. Am. Home Prod. Corp. (In re Diet Drugs Prods. Liab. Litig.)*, MDL No. 1203, No. 99-20593, 2010 U.S. Dist. LEXIS 66879, at *16 (E.D. Pa. July 2, 2010). Because the Amended Consent Order does not alter the relief afforded to the Rule 23(b)(3) Issues Class under the Original Consent Order, including the extended statute of limitations, no additional notice to that class is required.

4. Modification of a class action consent decree is appropriate where changed circumstances have made the original terms inadequate to achieve the decree's remedial purposes, particularly in light of the parties' experience in implementing the agreement. *In re Diet Drugs Prods. Liab. Litig.*, 385 F.3d

386, 392 (3d Cir. 2004). The Court finds that such circumstances are present here.

5. Upon review of the Memorandum of Law in Support of the Joint Motion and careful consideration, this Court concludes that changed circumstances warrant amendment of the Original Consent Order. Specifically, the non-coercive Compliance Monitor mechanism established in the Original Consent Order has proven insufficient to achieve the 95% compliance benchmark set forth therein, warranting the appointment of a Special Master with authority to enforce compliance.

6. The Court finds that the Amended Consent Order is fair, reasonable, and adequate to all members of the Rule 23(b)(2) Class and the Rule 23(b)(3) Issues Class in accordance with Federal Rule of Civil Procedure 23(e).

7. The Court finds that consideration of the *Girsh* factors supports approval of the Amended Consent Order. *See Girsh v. Jepson*, 521 F.2d 153, 157 (3d Cir. 1975); *Brown*, 2010 U.S. Dist. LEXIS 66879, at *13-14 (applying *Girsh* factors to amendment of class action consent order).

8. In light of NJDOE's agreement to appointment of a Special Master as set forth in Sections VI and VII of the Amended Consent Order, *see* Amended Consent Order ¶ 39(a), the Court will appoint a Special Master as set forth in

Fed. R. Civ. P. 53, pursuant to a contemporaneous Order Appointing Special Master.

9. As provided in Section XVII of the Original Consent Order, incorporated into the Amended Consent Order by ¶ 39, the Court shall retain jurisdiction over the Amended Consent Order and Settlement Agreement, for the purpose of resolving disputes arising under the Order, and for modifying, effectuating, or enforcing compliance with the Order.

IT IS SO ORDERED.

/s/ Edward S. Kiel

Edward S. Kiel, U.S.D.J.
Date: May 5, 2026