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. Jaynee LaVecchia, Special Master **ORDER OF SPECIAL MASTER**

LaVECCHIA, Special Master,

The Special Master directs the parties to brief the following: (1) why, for purposes of developing a Compliance Plan and the establishment of monitoring mechanisms for the 95% Compliance review (as defined in the Original Consent Order), the Special Master should not designate the method by which the expiration

of the 45-day deadline for due process hearings shall be calculated; and (2) whether the total permitted 45-day period for completion of the due process hearing and issuance of a decision, which runs continuously from the date of a parental request, may be tolled for a specific number of days based on an adjournment in proceedings for any day or days beyond which a party specifically requests.

Pursuant to the Amended Consent Order (ACO) endorsed by the Honorable Edward S. Kiel, U.S.D.J., on May 5, 2026, and subject to completion of the time period for comment and final entry, the Special Master has been charged with developing a Compliance Plan for submission to the Court and thereafter reporting on the progress of the New Jersey Department of Education (NJDOE) in achieving 95% compliance with 34 C.F.R. § 300.515, as required by the Original Consent Order, as amended by the ACO. In beginning work on the development of an appropriate Compliance Plan, the Special Master has determined that it is essential to eliminate ambiguity in how the 45-day time period is to be calculated. Certainty and transparency in the method of calculation will be integral to the development of a Compliance Plan that is clear, understandable, and capable of being accurately measured. The Special Master has not found that the previous Orders and Decisions of the Court have provided specificity concerning the method of calculation. Moreover, Federal Rule of Civil Procedure 53 grants a special master the authority to "take all appropriate measures to perform the assigned duties fairly and

efficiently." Fed. R. Civ. P. 53(c)(1)(B). Therefore, with respect to Question (1), the Special Master asks the parties to address any reasons why the Special Master should not provide that detail regarding the method of calculation of the 45-day period as an integral part of the Compliance Plan to be submitted for Court approval.

With respect to Question (2), the calculation of time for compliance with the 45-day period allotted for due process hearings under the Individuals with Disabilities Education Act (IDEA) runs from the date of the parental request for a due process hearing through the transmission of that matter by NJDOE to its legislatively designated agent for conducting due process hearings, the New Jersey Office of Administrative Law (NJOAL), and concludes with NJOAL's issuance of a Final Decision or Order resolving the matter. Under the IDEA, NJDOE is responsible for compliance with the due process hearing requirements overall. The New Jersey Legislature has directed NJDOE to utilize NJOAL for purposes of conducting the due process hearings in fulfillment of NJDOE's IDEA duties. *See* N.J.S.A. 52:14F-21.1. Thus, for purposes of developing a Compliance Plan and determining compliance with the 45-day time frame, the calculation to be established must include the entirety of the process and will dictate compliance by both NJDOE and its statutory agent and delegee, NJOAL, for purposes of the ACO.

In gathering initial background information, as mandated by the Special Master's duties, it is unclear that there is clarity and uniformity on how adjournment

requests by a party are to be handled for purposes of affecting the 45-day time period allowed for completion of the due process hearing. Uncertainty or ambiguity on this critical point by any participant in the due process delivery system in New Jersey cannot coexist with a meaningful resolution of this matter. Pursuant to 34 C.F.R. § 300.515 (a), (c), and paragraph 7 of the ACO, the 45-day timeline runs continuously (that is, the days continue to expire during the countdown period) from the date of a parental request for a due process hearing and excludes only specific extensions of time requested by a party and granted by an ALJ. The parties are to address in their briefing whether the total permitted 45-day period for completion of the due process hearing and issuance of a decision, which runs continuously from the date of a parental request, may be tolled for a specific number of days based on an adjournment in proceedings for any day or days beyond which a party specifically requests.

Briefing shall be submitted to the Special Master by 5 p.m. Eastern Time on Friday, June 26, 2026. A copy of this Order and all briefing by the parties shall be filed on the Court's docket.

SO ORDERED.

Jaynee LaVecchia

Jaynee LaVecchia, Special Master