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; ANGELICA ALLEN-McMILLAN, Acting Commissioner of Education, in her official capacity, Defendants.	Civil Action No. 19-cv-12807-NLH-MJS Noel L. Hillman, U.S.D.J. Matthew J. Skahill, U.S.M.J. **DECLARATION OF CATHERINE MERINO REISMAN IN SUPPORT OF UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT**

I, Catherine Merino Reisman, hereby declare:

1. I am an attorney licensed to practice law in the State of New Jersey, and I am admitted to the United States District Court for the District of New Jersey. By Order dated October 27, 2023, my firm was one of the firms appointed

as Class Counsel in this matter. ECF No 531. I make this declaration based upon my personal knowledge. If called to testify, I could testify competently to the facts in this declaration.

2. I submit this declaration in support of Plaintiffs' unopposed Motion for Preliminary Approval of Settlement Agreement.

A. The Settlement Agreement and the Class Notice

3. Attached as **Exhibit 1** is a true and correct copy of the Consent Order and Settlement Agreement (Settlement Agreement) signed by Class Counsel and counsel for defendants, executed on December 11, 2023.

4. Attached as **Exhibit 2** is a true and correct copy of the proposed Class Notice. Pursuant to the Settlement Agreement, should the Court preliminarily approve the settlement and form and method of Class Notice attached as Exhibit 2, defendant New Jersey Department of Education (NJDOE) will disseminate the Class Notice to both the class members and the class members' attorneys listed in NJDOE's special education database. NJDOE will send the Class Notice to class members via United States mail. NJDOE will send the Class Notice to the attorneys via electronic mail. Settlement Agreement ¶ 47. Further, Class Counsel will post copies of the Class Notice and the Settlement Agreement and its exhibits on the following website: www.NJ45DayClassAction.com.

B. Settlement Discussions

5. The Parties engaged in extensive discovery in the instant action.

6. On November 22, 2021, Plaintiffs filed a motion for class certification, seeking certification of a Rule 23(b)(2) Class and a Rule 23(b)(3) Issues Class. ECF No. 240, 241. Also on November 22, 2021, the Parties cross-moved for summary judgment. ECF 234, 247. The Court certified the Classes on August 19, 2022. ECF No. 384, 385. The Court denied the cross-motions for summary judgment on September 1, 2022. ECF 391.

7. Meanwhile, in April 2022, the Court urged the Parties to participate in mediation to resolve the matter prior to trial. ECF No. 352.

8. The Parties jointly requested referral to Magistrate Judge Skahill, ECF No. 355, before whom the Parties engaged in settlement discussions during the summer of 2022. ECF No. 356, 379, 383.

9. After the Court certified both Classes on August 19, 2022, the Parties engaged in private settlement discussions mediated by the Honorable Joel Schneider, U.S.M.J. (retired).

10. After many sessions of arms-length negotiations before Hon. Schneider (retired), such efforts proved fruitful, and resulted in a Consent Order and Settlement Agreement presented to the Court by motion for preliminary approval filed on June 9, 2023. ECF No. 462.

11. Importantly, the Parties did not negotiate resolution of the attorney's fees and expenses amount until *after* they agreed on the resolution of the merits issues.

C. Initial Motion For Preliminary Approval; The Court Instructs The Parties To Address Issues Raised By *Amici Curiae*; The Parties Engage in Additional Negotiations, With the Participation of Counsel for *Amici Curiae*, in the Fall of 2023,

12. On June 9, 2023, Plaintiffs presented a Consent Order and Settlement Agreement to the Court for preliminary approval. ECF No. 462.

13. On June 23, 2023, counsel for *amici curiae* raised limited concerns with the original Consent Order and Settlement Agreement. ECF No. 464. On July 11, 2023, the Court instructed the Parties to revise the original Consent Order and Settlement Agreement to address the concerns raised by *amici curiae*. ECF No. 474; Tr. 7.11.2023 at 12-13.

14. On August 31, 2023, the Court appointed RCGZ as interim class counsel. ECF No. 511. By Opinion and Order dated October 27, 2023, the Court approved the current Class Counsel team. ECF No. 530, 531.

15. Beginning in early September 2023, the parties entered into negotiations to revise the original Consent Order and Settlement Agreement to address the concerns raised by *amici curiae*. Counsel for *amici curiae* participated actively in the negotiations. The current proposed Consent Order and Settlement Agreement attached as Exhibit 1 reflects those negotiations.

16. Class Counsel also sought the input of counsel for *amici curiae* in drafting the Notice.

D. Plaintiffs Now Seek Preliminary Approval of The Revised Settlement Agreement

17. Class Counsel are well informed of the merits of this case, based on their participation in the extensive discovery in this matter and drafting of the motion for summary judgment, as well as their collective experience in the special education dispute resolution system in New Jersey.

18. Class Counsel, although confident in the merits of the case, are aware that there is risk inherent in taking any case to trial. Class Counsel also had to take into account the delays accompanying inevitable appeals and other post-trial proceedings. Weighing these factors. Class Counsel reasonably concluded that the Settlement Agreement will lead to much needed and long awaited relief far more quickly than proceeding to trial.

19. A settlement that requires NJDOE to demonstrate compliance with the 45-Day Rule (on pain of contempt) within 18 months is a better option for the Class than proceeding to trial, with all the risks attendant to the trial and subsequent appeals, which would not likely be resolved until after the 18 month period set out in the Settlement Agreement expires, and without the risk of any appeal.

20. Further, given the systemic relief required, a remedy crafted through settlement with participation of all parties is preferable to court-imposed relief.

21. The Settlement Agreement is fair and reasonable because it ensures that the classes will secure significant benefits, including the primary relief sought in this action, without the risks and expenses of continued litigation.

22. The Settlement Agreement provides for the appointment of a Compliance Monitor to assist NJDOE in remediating the delays in its special education due process hearing system. Settlement Agreement Section VI.

23. The Parties, moreover, already have had preliminary discussions with, and agreed upon, a proposed Compliance Monitor. Should the Court preliminarily approve the Settlement Agreement, the Parties will be able to jointly present their Compliance Monitor candidate to the Court for appointment at the same time as they seek final approval, which will allow the remediation process to begin immediately upon final approval.

24. As relief for the Rule 23(b)(2) Class, the Settlement Agreement provides that, for any due process petition filed pursuant to IDEA, NJDOE shall comply with the timelines in federal law. Settlement Agreement ¶ 10. The Settlement Agreement requires NJDOE to calculate the 45-day timeline exclusively using calendar days, in accordance with 34 C.F.R. § 300.515(a) and (c)

excluding specific extensions of time requested by a party and granted by an ALJ. *Settlement Agreement* at ¶ 9.

25. To comply with the Settlement Agreement, NJDOE must attain 95% compliance with the timelines in its handling of petitions for due process. Settlement Agreement ¶ 8. The Settlement Agreement explicitly defines the meaning of "95% compliance." Settlement Agreement ¶ 7. If NJDOE fails to reach 95% compliance after eighteen months, Class Counsel may seek further relief from the Court. Settlement Agreement ¶ 35.

26. The Settlement Agreement provides that the classes have the right to seek and recover reasonable attorneys' fees and costs.

27. As a result of the negotiation assisted by Judge Schneider, Defendants will not oppose an application of an award of attorneys' fees and expenses of $4,750,000.00 for all work performed through resolution of the Fairness Hearing. Settlement Agreement ¶ 40.

28. At the time they file the motion for final approval of the Settlement Agreement, the classes will file a motion, pursuant to Federal Rule of Civil Procedure 23(h), for approval of the amount of fees agreed to by the Parties in the Settlement Agreement. The papers filed in connection with that motion will detail the extensive efforts of Class Counsel in litigating and ultimately settling this case.

29. To ensure that Class Counsel will be able to monitor Defendants' efforts to achieve compliance, the Settlement Agreement also provides for reasonable fees and expenses for legal services performed related to post-judgment monitoring. Settlement Agreement ¶ 38. Class Counsel must support any request for such fees as to each monitoring period with appropriate billing records. If the Parties cannot agree on the amount of fees for monitoring, they may seek the assistance of a mediator or submit the dispute regarding fees to the Court. Settlement Agreement ¶ 44.

30. The Settlement Agreement will provide substantial benefits to both classes while avoiding the delays and risks of litigation.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 11, 2023.

/s/ Catherine Merino Reisman
Catherine Merino Reisman

EXHIBIT 1

IN THE 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; ANGELICA ALLEN-McMILLAN, Acting Commissioner of Education, in her official capacity, Defendants.	Civil Action No. 19-cv-12807-NLH-MJS Noel L. Hillman, U.S.D.J. Matthew J. Skahill, U.S.M.J. **CONSENT ORDER AND SETTLEMENT AGREEMENT**

THIS AGREEMENT is entered into by Plaintiffs 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., individually and on behalf of themselves and a class of persons similarly situated (the "C.P. Class" or "C.P. Plaintiffs") and Defendants New Jersey Department of Education ("NJDOE") and Angelica Allen-McMillan (collectively, "Defendants"). C.P. Plaintiffs and Defendants shall be referred to individually as a "Party" and jointly as the "Parties."

WITNESSETH THAT:

WHEREAS, on May 22, 2019, the C.P. Class filed a class action lawsuit in the Court against Defendants, *C.P., et al. v. N.J. Dept. of Educ., et al.*, No. 19-cv-12807 (the "C.P. Lawsuit"), alleging violations of the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.* ("IDEA") and 42 U.S.C. § 1983 and seeking wide-ranging declaratory and injunctive relief, as well as the recovery of attorney's fees and costs;

WHEREAS, on October 27, 2023, the Court appointed as Class Counsel Reisman Carolla Gran & Zuba LLP, Law Office of David R. Giles, Education Law Center, Law Office of Denise Lanchantin Dwyer LLC, Thurston Law Offices LLC, and Wasserman Legal LLC;

WHEREAS, this Settlement Agreement concerns New Jersey's special education dispute resolution system;

WHEREAS, on February 27, 2020, the C.P. Class filed the Second Amended Complaint;

WHEREAS, on June 19, 2020, Defendant filed an Answer to the Second Amended Complaint in the C.P. Class matter;

WHEREAS, since June 2022, the Parties have exchanged written settlement proposals and counter-proposals and have engaged in in-person settlement conferences to negotiate the terms of this Settlement Agreement;

WHEREAS, through these settlement negotiations, the Parties have negotiated and agreed to the specific details of this Agreement;

WHEREAS, the Parties acknowledge that, to the extent possible, it is in their best interests to resolve the issues raised in this Settlement Agreement by means other than litigation and, to this end, have on this day agreed to enter into this federally enforceable Settlement Agreement;

WHEREAS, the Parties recognize, and the Court by entering this Consent Order finds, that this Consent Order has been negotiated by the Parties in good faith and will avoid further litigation between the Parties and that this Consent Order is fair, reasonable, and in the public interest;

NOW THEREFORE, with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331.

2. Venue is proper pursuant to 28 U.S.C. § 1391.

II. REVISED CLASS DEFINITIONS

3. The definition of the class certified pursuant to Fed. R. Civ. P. 23(b)(2) is amended as follows: All persons who, pursuant to the IDEA, have filed or will file during the period of time that the Court retains jurisdiction, a due process petition with NJDOE, and whose cases are pending in the New Jersey Office of Administrative Law ("NJOAL").

4. The definition of the Issues Class certified pursuant to Fed. R. Civ. P. 23(b)(3) is amended as follows: All persons who, pursuant to IDEA, filed due process petitions with NJDOE on or after May 23, 2016, who, after their due process petition was transmitted to the NJOAL, did not receive a decision within

the timeline as defined in 34 C.F.R. §300.515(a), (c) and the violation occurred prior to approval of this Agreement.

III. DEFINITIONS OF TERMS AS USED IN THIS AGREEMENT

5. "**Pending Cases**" shall be defined as any and all due process petitions for which the resolution period or the agreed upon adjusted resolution period has ended, in accordance with 34 C.F.R. §300.510(b) or (c), but the petition remains unresolved in NJOAL, regardless of whether the case is within or has surpassed the 45-day timeline.

6. "**Final Decision Cases**" shall be defined as any and all due process petitions that have been resolved in full, and shall include two distinct groups of due process petitions:

   a. **Final Decisions Post-Full Hearing**, which shall include any and all due process petitions that are resolved, in full, through the issuance of a final decision by NJOAL following the completion of a due process hearing; and

   b. **Final Decisions-No Full Hearing**, which shall include any and all due process petitions that are resolved, in full, through the issuance of a final decision by NJOAL without the completion of a due process hearing, including summary decision, dismissal of a petition with or without prejudice, and NJOAL-approved settlement agreements.

7. "**95% Compliance**" shall be defined as the timely resolution of due process petitions, in accordance with 34 C.F.R. § 300.515(a), (c), in 95% of all special education due process matters at the NJOAL during a four month period, provided that, when examining each month of the four month period, there is no decrease below 95% in the compliance rate from the prior month. The Compliance Monitor shall determine the percentage of compliance achieved in each of three

areas—**Pending Cases**, **Final Decisions Post-Full Hearing**, and **Final Decisions-No Full Hearing**:

a. For **Pending Cases**, the total number of Pending Cases that remain at the end of each four month period that are still within the 45-Day timeline, excluding specific extensions of time requested by a party and granted by an ALJ, shall be divided by the total number of Pending Cases that remain at the end of the four month period.

b. For **Final Decisions Post-Full Hearing**, the total number of Final Decisions Post-Full Hearing at the end of each four month period that were resolved within the 45-Day Timeline, excluding specific extensions of time requested by a party and granted by an ALJ, shall be divided by the total number of Final Decisions Post- Full Hearing that were resolved during the four month period.

c. For **Final Decisions-No Full Hearing**, the total number of Final Decisions-No Full Hearing at the end of each four month period that were resolved within the 45-Day Timeline, excluding specific extensions of time requested by a party and granted by an ALJ, shall be divided by the total number of Final Decisions-No Full Hearing that were resolved during the four month period.

For purposes of determining NJDOE's compliance with the Settlement, NJDOE must attain 95% compliance separately for each of the three areas above.

8. "**Day 1**" of the 45-Day timeline shall be defined as the first day following the end of the 30-day resolution period, in accordance with 34 C.F.R. §300.510(b), the end of the parties' agreed-upon adjusted resolution period, in accordance with 34 C.F.R. §300.510(c) or in the event of a district filing, consistent with the process outlined in N.J.A.C. 6A:14-2.7(h)(11), Day 1 is the day after filing, unless the parties agree to voluntary mediation, in which case Day 1

shall be the first day after completion of the 30-day mediation period or the end of the parties' agreed-upon adjusted mediation period.

9. "**45 Days or 45-Day Timeline**" shall be defined as 45 calendar days from Day 1, as defined at Paragraph 8, and shall be calculated exclusively using calendar days, in accordance with 34 C.F.R. § 300.515(a), (c), excluding specific extensions of time requested by a party and granted by an ALJ as provided in 34 C.F.R. § 300.515(c). Defendants shall immediately cease counting 45 Days or the 45-Day Timeline in any manner other than calendar days, and shall revoke any and all policies, practices, guidelines, and/or procedures that permit the counting of 45 Days or the 45-Day Timeline in any manner other than calendar days.

IV. RELIEF FOR THE RULE 23(b)(2) CLASS

10. For any due process petition filed pursuant to IDEA, NJDOE shall ensure, pursuant to 34 C.F.R. § 300.515, that not later than 45 days after the expiration of the 30-day resolution period under 34 C.F.R. § 300.510(b), or the agreed-upon adjusted resolution periods described in 34 C.F.R. § 300.510(c), and accounting for the specific extensions of time requested by a party and granted by an Administrative Law Judge as provided in 34 C.F.R. § 300.515(c):

a. A Final Decision, as defined *supra* at Paragraph 6, is reached by NJOAL; and

b. NJOAL has mailed a copy of the decision to each of the parties.

11. For purposes of compliance with this Agreement, for all Pending Cases that exist on the date of this Agreement's approval by the Court, the 45-Day Timeline as set forth in 34 C.F.R. § 300.515 (a), (c) will reset and begin to run on the calendar day immediately following the date of final approval of this Agreement.

12. To ensure that future Rule 23(b)(2) Class Members know about the Settlement, the transmittal documents from NJDOE to NJOAL arising from a due

process petition shall, for the duration of the Court's jurisdiction over this matter, include a black box placed at the centered, at 1 point larger font than the rest of the text, with the following language:

CLASS ACTION NOTICE
Due to the entry of a Consent Order resolving a Class Action, a federal court has appointed a Compliance Monitor to oversee the timely resolution of special education due process hearings. If you believe that your due process petition is not being resolved in a timely manner, you can contact the Compliance Monitor at [email address]. You can contact Class Counsel at info@NJ45dayclassaction.com with questions or concerns regarding the Consent Order, which is explained here [notice link].

V. RELIEF FOR THE RULE 23(b)(3) ISSUES CLASS

13. Any member of the Rule 23(b)(3) Issues Class shall have two (2) years from the date of entry of this Order to file a claim in this court for individual relief under the IDEA for a violation arising out of or related to the timeline in 34 C.F.R.§ 300.515(a), (c). This agreed extension is in lieu of class action tolling.

VI. APPOINTMENT OF COMPLIANCE MONITOR

14. The Court will appoint a Compliance Monitor using the following process.

a. The parties will attempt to agree upon a candidate to serve as a Compliance Monitor. The Compliance Monitor may consist of a single person, a team of individuals, or one or more organizations. If successful, the parties jointly will present a candidate to the Court for appointment by no later than 30 days after final approval of this Agreement. If the parties cannot agree on a candidate, they shall each propose three candidates to the Court by no later than 30

days after final approval of this Agreement and the Court will select the person to serve as Compliance Monitor.

b. If, in the future, the Compliance Monitor becomes permanently unavailable for any reason or is unable to fulfill the duties of the Compliance Monitor, the parties will meet and confer to determine whether a mutually acceptable replacement can be recommended to the Court for appointment. If there is no mutually agreed upon candidate, the Parties may make separate recommendations to the Court.

c. NJDOE is responsible for compensating the Compliance Monitor and will establish a reasonable rate of pay consistent with market rates for the services being performed.

VII. ROLE, DUTIES, AND AUTHORITY OF COMPLIANCE MONITOR

15. The general role of the Compliance Monitor is to provide the NJDOE with the support, guidance, experience, and expertise needed to comply with the terms of this Agreement.

16. The Compliance Monitor's duties include, but are not limited to, the following: To develop a compliance plan; to oversee and monitor the implementation of the compliance plan; to amend the plan, as necessary and appropriate to address non-compliance; to review and analyze data related to non-compliance with the 45-Day rule; to identify and address barriers to non-compliance, through the development and implementation of targeted interventions; to make recommendations regarding the development, implementation, and assessment of all initiatives, interventions, and corrective actions designed to rectify non-compliance with the 45-Day Rule; and to oversee, monitor, measure, assess, and report upon the effectiveness of the compliance plan and implementation of interventions to improve compliance. The Compliance

Monitor will meet and discuss revisions and issues related to the plan with NJDOE and Class Counsel, as the Monitor deems appropriate or when requested by one of the parties.

17. The Compliance Monitor shall have full access to any and all information and data the Monitor needs from NJDOE to fulfill the Monitor's role and duties. Data includes, but is not limited to, data needed to determine, measure, and analyze the presence and causes of non-compliance, and barriers to compliance, with the 45-Day timeline; and data needed to measure, assess, and report upon the effects of interventions developed to address non-compliance. NJDOE shall make all reasonable efforts to obtain and provide any and all information and data the Monitor requests, including information and data in the custody and control of Office of Administrative Law. Once the information is provided to NJDOE, NJDOE will provide that information to the Monitor in a timely manner.

18. The Monitor may conduct individual, confidential interviews as part of the data collection process, as the Monitor deems appropriate. The Monitor shall ensure that the confidentiality of persons interviewed and of identifying information shared is protected unless the interviewee permits disclosure.

19. The Compliance Monitor shall operate independently of the parties and the Court, and shall have the authority to recommend corrective actions to ensure compliance with the settlement.

VIII. PLAN FOR COMPLIANCE

20. By no later than 90 days after the Monitor's appointment, the Monitor shall develop a Compliance Plan as stated in Paragraph 16 above. The Compliance Plan shall be a working document. As part of the plan, NJDOE shall collect data, including through the Adjournment Form referenced in Paragraph 22, as well as the electronic survey at the end of the Adjournment Form and/or through NJOAL's

electronic case management system. The Compliance Plan shall identify the data to be collected monthly in accordance with this Agreement, as well as any additional information and data to be collected as deemed appropriate by the Monitor, and shall identify the format in which the data shall be provided. Where the Monitor requires additional information or data not captured by the electronic survey or NJOAL's electronic case management system, the parties shall mutually agree upon another mechanism for collecting such information and data.

21. Upon the hiring of the Compliance Monitor, NJDOE shall provide the Monitor with a list of the unresolved due process petitions that have been transmitted to the NJOAL up to the date of approval of the Settlement, including the date of transmittal, and shall make all reasonable efforts to provide the Monitor with full access to the case files for all unresolved due process petitions that exceeded the 45-Day Timeline as of the date of final approval of this Agreement. This initial data, which pre-dates approval of this Agreement, shall not be considered evidence of non-compliance but rather shall serve as a starting point for the Monitor to begin the process of identifying the presence and causes of non-compliance and barriers to compliance, and may be included in the Compliance Plan as the Monitor deems appropriate.

22. An Adjournment Form (attached here as Exhibit A) will be used to track specific extensions of time requested by the parties and granted by the ALJ. Each Adjournment Form will be maintained in the electronic case file for each matter.

IX. COMPLIANCE REPORTING

23. The Monitor shall, at the end of each monitoring period according to the schedule set forth at Paragraphs 28 and 32 below, submit a report detailing the status of compliance with the timeline set forth in 34 C.F.R. § 300.515(a), (c).

24. On a monthly basis, starting sixty (60) days after the date of final approval of this Agreement by the Court, NJDOE will provide to the Compliance Monitor (i) the number of due process petitions received by NJDOE for that month and (ii) the number of due process petitions transmitted to the NJOAL.

25. On a monthly basis, starting thirty (30) days after the date of final approval of this Agreement by the Court, NJDOE will provide to the Compliance Monitor the data needed to assess compliance as set forth at Paragraph 7 above.

26. To assess compliance, the Compliance Monitor may review the following documents for each **Pending Case**:

a. The Transmittal Notice and accompanying transmittal documents, which shall state the initial 45-Day deadline for disposition, calculated in accordance with Paragraph 9 above; and
b. Any and all completed and signed Adjournment Forms showing a party's request for a specific adjournment; and
c. All scheduling orders (including the initial scheduling order).

27. To assess compliance, the Compliance Monitor may review the following documents for each and every **Final Decision Case**, disaggregated into the two distinct **Final Decision Case** groups set forth in Paragraphs 6(a) and (b) above:

a. The Transmittal Notice and accompanying transmittal documents, which shall state the initial 45-Day deadline for disposition, calculated in accordance with Paragraph 9 above; and
b. Any and all completed and signed Adjournment Forms showing a party's request for a specific adjournment and the ALJ's disposition;
c. All scheduling orders (including the initial scheduling order); and

d. The dated and signed order of dismissal or notice of withdrawal, the final decision approving a settlement, the final decision in the case issued after a hearing, and/or any other decisions disposing of the case.

28. The Monitor will issue a report every four months, or at a shorter regular interval should the Monitor so choose, in accordance with the process and timelines set forth at Paragraph 32 below. Beyond the 18 months after approval of the Agreement, the Monitor will issue reports on a semiannual basis for as long as the Court retains jurisdiction.

29. The first report issued after the hiring of the Compliance Monitor may include, but not be limited to, a baseline of relevant data, including data available prior to the approval of the Settlement; a summary of the initiatives, interventions, and corrective actions put in place prior to the first monitoring reporting period to address the problem and the results of same; data collected during the first monitoring reporting period; a hypothesis of the causes of non-compliance and barriers to compliance; a summary of the steps taken by NJDOE during the first monitoring period to identify and address the causes of non-compliance; a summary of the actions NJDOE will take in the second monitoring period to rectify noncompliance; and how said actions will be measured and assessed.

30. The remaining reports within the 18-month time period and the subsequent semiannual reports shall include, but not be limited to, a summary of the initiatives, interventions, and corrective actions put in place during that monitoring reporting period to address the problem and the results of same; data collected during that monitoring reporting period; a discussion of the causes of non-compliance and barriers to compliance; a summary of the steps taken by NJDOE during that monitoring period to identify and address the causes of non-compliance; a summary of the actions NJDOE will take in the next monitoring

period to rectify noncompliance; and how said actions will be measured and assessed. The report shall also specifically address, among other data points, in both matched and aggregate (where appropriate and in accordance with this Agreement) format on a monthly basis and monitoring period basis, the following: (i) how many due process petitions NJDOE received each month; (ii) how many due process petitions were transmitted to NJOAL; (iii) of the petitions transmitted, how many days did it take for transmittal to occur; (iv) how many due process petitions were **Pending Cases** at the end of the month; (v) of the **Pending Cases**, how many were beyond the 45-Day Timeline, excluding specific requests for extension of time as allowed pursuant to 34 C.F.R. §300.515(c); (vi) how many due process petitions were **Final Decisions Post-Full Hearing** at the end of the month; (vii) of the **Final Decisions Post-Full Hearing**, how many were beyond the 45-Day Timeline, excluding specific requests for extension of time as allowed pursuant to 34 C.F.R. §300.515(c); (viii) how many due process petitions were **Final Decisions-No Full Hearing** at the end of the month; (ix) of the **Final Decisions-No Full Hearing**, how many were beyond the 45-Day Timeline, excluding specific requests for extension of time as allowed pursuant to 34 C.F.R. §300.515(c).

31. The Compliance Monitor shall use the information set forth in Paragraphs 26 and 27 to calculate the percentages of compliance with the timelines in 34 C.F.R. §300.515(a), (c) of due process petitions that have been transmitted to the NJOAL in **Pending Cases**, **Final Decisions-Post Full Hearing**, and **Final Decisions – No Full Hearing**.

32. When issuing a Monitoring Report, the Monitor shall follow the timeline and process listed below:

a. The Monitoring Report shall be issued by no later than forty-five (45) days following the last day of the monitoring period.

b. The Monitor will issue a draft of the report to the parties within twenty (20) days of the last day of the monitoring period.

c. The parties will have ten (10) days after receipt of the draft report to submit any comments/objections to the Monitor.

d. The Monitor will release the final report fifteen (15) days after receiving the parties' comments/objections.

e. Within 30 days of receiving the finalized report, the parties may meet with the Monitor separately or together to discuss how to address any issues or concerns raised in the report ("post-report meeting").

f. Each report after the first report should reflect a positive trend toward achieving or maintaining 95 percent compliance with 34 C.F.R. § 300.515(a), (c), as defined at Paragraph 7. In the event a report does not reflect a positive trend toward meeting 95 percent compliance with the timelines as defined in 34 C.F.R. § 300.515(a), (c), the Monitor shall hold a post-report meeting to discuss and address compliance barriers and/or issues with meeting the 95 percent benchmark at the post-report meeting.

33. Upon issuance of the final report, NJDOE shall, within five (5) business days, post a copy of the report, with redaction of any personally identifiable information, on its website in a clearly marked location.

X. OPPORTUNITY FOR INPUT TO MONITOR

34. Within fifteen (15) calendar days of final approval of this Agreement by the Court, NJDOE will provide an opportunity for individuals to provide input, anonymously or otherwise, regarding experiences with the NJDOE and NJOAL in having due process petitions processed, heard, and/or resolved by establishing an

email account accessible by the Monitor. The Monitor shall regularly check the email account and may choose to disclose this input within the monitoring reports.

XI. ENFORCEMENT AFTER EIGHTEEN MONTHS

35. The Class will not seek an order of contempt for eighteen (18) months after the effective date of the final approval of this Agreement by the Court. After eighteen (18) months from the date this Agreement is approved by the Court, if Class Counsel believes that Defendants have not complied materially with any provision of this Agreement, Class Counsel shall provide the Department of Education, with a notice containing (i) the act of non-compliance, (ii) a reference to the specific provision(s) of the Agreement that the Class alleges Defendants have violated, and (iii) a statement of the remedial action sought. Defendants shall have an opportunity to respond to Class Counsel's claims within 30 days. The parties shall then meet and confer within 30 days to discuss a resolution of the issues. If the parties do not resolve the issues after meeting, the Class may file a formal application with the Court alleging its claim of material non-compliance and seeking all appropriate relief. For purposes of this provision, material non-compliance is defined as any material failure by NJDOE to comply with any terms of this Agreement, including but not limited to, failing to achieve a sustained compliance rate of 95%, as defined in Paragraph 7, *supra*, for either of the **Final Decision** groups or the **Pending Cases** Group, within 18 months of final approval of this Agreement by this Court.

XII. INCENTIVE PAYMENTS

36. NJDOE shall make incentive payments to the family of each named plaintiff in the amount of $5,000, for an aggregate amount of $50,000. This award is subject to any child support and/or State liens against the individual Named Plaintiffs. After final approval, payment will be made upon receipt of completed child support certifications for each Named Plaintiff and New Jersey W-9(s) for

the Named Plaintiffs. Upon receipt of the above-mentioned documentation, payment will be made within thirty (30) days. Should payment not be made within 90 days, the Parties may seek assistance of the Court. Payments to the Named Plaintiffs should be made via check payable to each individual Named Plaintiff.

XIII. ATTORNEY'S FEES

37. Defendants agree that the Class is the prevailing party for the purposes of an award of attorney's fees pursuant to 20 U.S.C. § 1400 et seq. and 42 U.S.C. § 1983 and is entitled to an award of reasonable and necessary fees.

38. The parties further agree that Class Counsel is entitled to reasonable fees and expenses for legal services performed related to the post-judgment monitoring as stated in Section IX of this Agreement.

39. Class Counsel provided Defendants' counsel with a fee demand for the reasonable and necessary fees incurred during this matter, as well as, the anticipated fees for the post-judgment monitoring mentioned in Section IX of this Agreement. The fee demand for the reasonable and necessary fees already incurred included any and all proofs supporting the demand, including billing records demonstrating the date of service, the hourly rate, the time spent on the work, and a description of the nature of the work performed. After Class Counsel provided Defendants with its fee demand and the complete accompanying proofs, the parties negotiated the fees with the assistance of the Honorable Joel Schneider, former U.S.M.J. at NJDOE's expense.

40. As a result of the negotiation assisted by the Honorable Joel Schneider, Defendants will not oppose an application for an award of attorneys' fees and expenses of $4,750,000.00 for all work performed through resolution of the Fairness Hearing scheduled as a result of the Motion for Preliminary Approval

of the Settlement. Defendants will not pay this amount from funds received by them pursuant to the Individuals with Disabilities Education Act.

41. All payments of attorney's fees and costs will be made after Defendants' Counsel receive the legally required paperwork, which may include, but is not limited to, a completed State of New Jersey W-9; State of New Jersey Vendor Invoices and/or signed vouchers, to the extent necessary; and Registration through the New Jersey Treasury to the extent necessary for the Treasury to process the payment.

42. Any payment of attorneys' fees awarded for work through final approval will be distributed as follows: Defendants will pay 41.5488% of any attorney's fees awarded for work performed through approval of the settlement to John Rue & Associates, LLC and issue a 1099 for that amount to John Rue & Associates, LLC. Defendants will pay 58.4512% of any attorney's fees awarded for work performed through approval of the settlement to the trust account of Reisman Carolla Gran & Zuba LLP (RCGZ) and issue a 1099 for that amount, which will be distributed by RCGZ to counsel other than John Rue & Associates LLC in accordance with a private agreement between those firms. After final approval, Defendants will make the payment of attorney's fees and costs within 60 days after receipt of the respective legally-required paperwork.

43. The parties agree and recognize that Defendants will not be a party to the agreement between Plaintiffs' Counsel for the allocation of the payment of fees and costs. If a dispute should arise between Plaintiffs' Counsel regarding the allocation of the awarded fees and costs, Defendants shall not be named as a party or deemed responsible for any payment arising out of the dispute.

44. For fees sought for work performed during the period of compliance monitoring pursuant to Section IX above, the Parties agree to use the procedure set forth in Paragraph 39 to determine the amount of fees to be paid by Defendants as

to each monitoring period, except that the Parties may choose whether to retain a mediator to assist in the negotiation of the fees.

XIV. PROCEDURE FOR APPROVAL OF SETTLEMENT

45. The parties are ordered to meet and confer on the form of notice to the class, the means of dissemination, the objection period, and any other issues related to notice. If the parties cannot reach agreement, they shall separately state their positions to the Court.

46. The Court will Order notice to the Class, including an opportunity to object, and schedule a fairness hearing in due course.

47. NJDOE will disseminate the Notice to the Class and bear the cost of the dissemination. For the Fed. R. Civ. P 23(b)(3) class members and current Fed. R. Civ. P. 23(b)(2) class members, the NJDOE will provide the class notice to both the class members and the class members' listed attorneys in NJDOE's special education database. The notice to the class members will be sent via U.S. mail. The notice to the attorneys will be sent via electronic mail.

XV. RELEASE OF CLAIMS

48. Effective upon the entry of this Order and Agreement by the Court, in consideration of the relief set forth herein:

a. It is expressly understood and agreed by the Parties that this Agreement constitutes a complete and final release between the parties with respect to any and all past and present (but not future) liabilities, claims, demands, rights and causes of action, guarantees, claims for damages or other relief, settlements, costs, and compensation of any kind or nature whatsoever, arising out of the C.P. Class's claims, excluding claims concerning Plaintiffs' Second Motion for Preliminary Injunction (see Paragraph 48(e), *infra*). The Second Amended Complaint did not request any

individualized relief, so this Agreement does not release any past, present, or future individual claims.

b. In return for the consideration of this Agreement, the C.P. Class knowingly and voluntarily, completely, and forever, releases and discharges Defendants and each of Defendants' officers, from any and all claims, causes of action, judgments, obligations or liabilities of whatever kind and character raised in the Second Amended Complaint filed on February 27, 2020, excepting any individualized relief.

c. Notwithstanding the foregoing subparagraphs 48(a) and 48(b), nothing in this Agreement shall bar any member of the C.P. Issues Class as defined in Paragraph 4 of this Agreement from bringing a future action in an individual capacity under the IDEA arising out of a past, present, or future violation of the timeline as defined in 34 C.F.R. § 300.515(a), (c) for any form of relief, including requests for individualized relief, not pled in the Second Amended Complaint nor does this bar them from seeking relief, including individualized relief, related to the implementation of procedural guidelines as set forth in subparagraph (e) below. The parties acknowledge and agree that Defendants reserve any and all defenses and arguments related to those claims (subject to the tolling agreed to herein).

d. The Parties acknowledge that two named plaintiffs, (i) C.P. o/b/o F.P. and (ii) M.S. o/b/o H.S., have asserted individual claims in separate actions, *inter alia,* against defendant NJDOE. The release in this Agreement does not affect any claims or defenses that have been or may be alleged in those actions.

e. Plaintiffs hereby withdraw the Second Motion for Preliminary Injunction without prejudice. The Second Motion for Preliminary Injunction related to claims in the Second Amended Complaint regarding the attempt to adopt "Procedural Guidelines" in 2020. NJDOE has withdrawn the 2020 proposed guidelines. The parties expressly understand and agree that, because the Second Motion for Preliminary Injunction is being withdrawn without prejudice, the request for injunctive relief can be renewed. Nothing in this Agreement prevents any Class Member, parent of a student with a disability, or interested party from separately challenging any attempt to implement new guidelines or the implementation or attempted reimplementation of any or all of the 2020 proposed guidelines.

XVI. EFFECTIVE DATE

49. The Effective Date of this Consent Order shall be the date upon which this Consent Order is entered by the Court or a motion to enter the Consent Order is granted, whichever occurs first, as recorded on the Court's docket.

XVII. RETENTION OF JURISDICTION AND TERMINATION DATE

50. The Court shall retain jurisdiction over this case until termination of this Consent Order, for the purpose of resolving disputes arising under this Order or entering orders modifying this Order, or effectuating or enforcing compliance with the terms of this Order.

51. When the Compliance Monitor finds that NJDOE has reached 95% compliance with the timeline as defined in 34 C.F.R. §300.515(a), (c), as defined in Paragraph 7, *supra*, Defendants may move to terminate this Consent Order. The Class may object, and the Court will resolve the matter.

XVIII. OTHER MATTERS

52. *No admission of liability.* Nothing in this agreement shall be construed to be an admission of liability under any theory asserted in the Second Amended Complaint.

53. *Entire Agreement*. This Agreement, including exhibits, contains all the agreements, conditions, promises, and covenants between Plaintiffs and Defendants regarding matters set forth in it, and supersedes all prior or contemporaneous agreements, drafts, representations, or understandings, either written or oral, with respect to the subject matter of the present Agreement.

54. *Modification*. The terms and conditions of this Agreement can be amended, changed, or altered only by written agreement of the Parties through their respective counsel or by order of the Court upon motion.

55. *Drafting of this Agreement*. This Agreement is deemed to have been drafted by all Parties hereto, as a result of arm's length negotiations among the Parties. Whereas all Parties have contributed to the preparation of this Agreement, it shall not be construed more strictly against one Party than another.

56. *Execution by Facsimile and in Counterparts*. This Agreement may be executed by the Parties hereto by facsimile and in separate counterparts, and all such counterparts taken together will be deemed to constitute one and the same agreement.

57. *Interpretation*. The language of this Agreement will be construed as a whole according to its fair meaning, and not strictly for or against any of the Parties. The headings in this Agreement are solely for convenience and will not be considered in its interpretation. Where required by context, the plural includes the singular and the singular includes the plural, and the terms "and" and "or" will mean "and/or." This Agreement is the product of negotiations and joint drafting so that any ambiguity will not be construed against any Party. If any provision or provisions of this Agreement are found to be contrary to law, the Parties agree that

the remaining provisions will not be affected and will remain in full force and effect.

58. *Computation of Time*. Computation of time or periods of time referenced in any document related to this Settlement Agreement shall be computed pursuant to Federal Rule of Civil Procedure 65.

59. *Additional Documents.* To the extent any documents are required to be executed by any of the Parties to effectuate this Agreement, each Party hereto agrees to execute and deliver such and further documents as may be required to carry out the terms of this Agreement.

60. *Authority to Bind.* The undersigned each represent and warrant that they are authorized to sign on behalf of, and to bind, the respective Parties of this Agreement.

61. *Changes in Law.* The parties acknowledge that during the term of this Agreement, there may be revisions to the IDEA and its implementing regulations and/or state law. The parties agree that should changes in these laws impact the terms of this Agreement, they will confer and determine whether it is necessary to modify the terms of this Agreement. The parties will submit any proposed modifications to the Agreement to the Court for approval. Should the parties dispute the need for a change in the terms because of a change in law, the Court shall resolve such dispute.

XIX. FINAL JUDGMENT

62. Upon approval and entry of this Consent Order by the Court, this Consent Order shall constitute a final judgment of the Court. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SETTLEMENT AGREEMENT, INCLUDING RETENTION OF JURISDICTION FOR ENFORCEMENT, APPROVED BY THE COURT:

Dated and entered this _____ day of _____, 2023

_____
Noel L. Hillman
United States District Judge

FOR THE CLASS

_____
Catherine Merino Reisman
Reisman Carolla Gran & Zuba LLP

_____
David R. Giles
Law Office of David Giles

_____
Robert Kim
Education Law Center

_____
Denise Lanchantin Dwyer
Law Office of Denise Lanchantin Dwyer LLC

_____
Robert C. Thurston
Thurston Law Offices LLC

_____
Jeffrey I. Wasserman
Wasserman Legal LLC

FOR THE DEFENDANTS

_____
Daniel Dryzga
Assistant Attorney General

EXHIBIT A TO AGREEMENT

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

SPECIAL EDUCATION DUE PROCESS HEARING
EXTENSION / ADJOURNMENT FORM

Under 34 C.F.R. § 300.515(a) of the Individuals with Disabilities Education Act, a final decision must be issued not later than 45 days after the expiration of the resolution period under 34 C.F.R. § 300.510(b), or the adjusted time periods described in 34 C.F.R. § 300.510(c), excluding specific extensions of time requested by a party and granted by an ALJ under 34 C.F.R. § 300.515(c).

PART ONE

I. Case Information

(A) Case Name:

(B) OAL Docket No.:

(C) Agency Ref. No.:

(D) Transmittal Date:

II. Time Period

(A) Date Resolution Period Expired:

(B) Original Final Decision Due Date (Original 45-calendar-day time period, if no prior extension had been granted):

(C) Extended Final Decision Due Date (Current 45-calendar-day time period, if a prior extension had been granted):

III. Extension Request

(A) The hearing date for which the party requested the specific extension:

(B) The reason for the extension:

(C) The length of the extension (in calendar days):

IV. Signatures and Dates

(A) The Parties

(1) The Requesting Party (required):

(2) The Requesting Party (if joint):

(3) The Consenting Party (if consenting):

(4) The Objecting Party (if objecting):

(B) The ALJ

☐ Granted ☐ Denied , ALJ

(C) All Hearing Dates and New Final Decision Due Date

(1) All Hearing Dates:

(2) New Final Decision Due Date:

(A) **WHEN NO PRIOR EXTENSION HAS BEEN GRANTED**: To calculate the new Final Decision Due Date, take the Original Final Decision Due Date in **(II)(B)** and add the number of calendar days for which the party requested the specific extension in **(III)(C)**:

(B) **WHEN A PRIOR EXTENSION HAS BEEN GRANTED**: To calculate the new Final Decision Due Date, take the Extended Final Decision Due Date in **(II)(C)** and add the number of calendar days for which the party requested the specific extension in **(III)(C)**:

PART TWO

NJDOE Required Extension Survey

EXHIBIT 2

NOTICE OF CLASS ACTION SETTLEMENT
C.P., et al. v. New Jersey Department of Education, et al.
Case No. 1:19-cv-12807-NLH-MJS
United States District Court for the District of New Jersey
Judge Noel L. Hillman

IMPORTANT NOTICE ABOUT THE SETTLEMENT OF A CLASS ACTION LAWSUIT AGAINST THE NEW JERSEY DEPARTMENT OF EDUCATION (NJDOE) AND ITS ACTING COMMISSIONER OF EDUCATION

The New Jersey Department of Education (NJDOE) has settled a lawsuit concerning the Individuals with Disabilities Education Act (IDEA). Under the law, when a parent files a due process petition, the parties have 30 days to try to resolve the case without a hearing (the "30-day resolution period"). If a case is not resolved during that period, federal rules require that an Administrative Law Judge (ALJ) must decide these cases within 45 days from the end of the 30-day resolution period. The ALJ can extend the timeline only when a party requests a specific extension of time. The lawsuit argued that NJDOE did not ensure that these cases were decided within this timeframe. For more details on the Settlement, visit NJ45DayClassAction.com. NJDOE denies wrongdoing. The court will have a Fairness Hearing to determine the Settlement's fairness, reasonableness, and sufficiency.

Who is Included? The court identified two Classes: The 23(b)(2) Class includes anyone with a current due process petition under IDEA in the New Jersey Office of Administrative Law (NJOAL) and those filing in the future under the court's oversight. The court will oversee the case for at least 18 months. The 23(b)(3) Issues Class includes anyone who filed a due process petition on or after May 23, 2016, and before the Settlement's approval, and did not receive a decision within the 45-day timeline (after subtracting ALJ-approved time extensions requested by a party). This notice is for members of either or both Classes and attorneys who represent or represented them.

Settlement Terms

NJDOE has agreed to the following Settlement terms for the **Rule 23(b)(2) Class**:

- The court will issue a Consent Order directing NJDOE to ensure due process petitions are decided within the 45-day timeline (after subtracting ALJ-approved time extensions requested by a party).
- The court will appoint a Compliance Monitor to oversee NJDOE's efforts to comply with the Settlement. The Compliance Monitor will provide monitoring reports to the public every four months.
- Within 18 months of final Settlement approval, NJDOE must demonstrate for a four-month period, a 95% compliance rate for hearing and deciding due process petitions within the 45-day timeline. If achieved, NJDOE may move to terminate the Consent Order; if the Class objects, the court will decide whether to terminate the Order.
- The Class may file a motion for contempt if, at the end of the 18 months, the Compliance Monitor finds a less than 95% compliance rate. The Class may seek relief like the appointment of a Special Master or an Order for NJDOE to develop a remediation plan, subject to court approval. If the NJDOE objects, the court will resolve the issue.

NJDOE has agreed to the following Settlement terms for the **Rule 23(b)(3) Issues Class**:

- For violations that happened between May 23, 2016 and the date the Agreement is approved, Class members will have two (2) years from the date of the court's approval of the Settlement to file claims against NJDOE for individual relief under IDEA related to past violations of the 45-calendar day timeline. Claims should be filed in United States District Court for the District of New Jersey. NJDOE maintains all defenses and arguments against these claims and will defend itself in those actions.

NJDOE has agreed to the following Settlement terms for **both Classes**:

- NJDOE will pay the costs associated with distributing this notice.
- NJDOE will pay court-ordered awards of attorneys' fees and costs, capped at $4,750,000, to law firms representing the Classes. This covers work performed without payment and expenses advanced up to the date of the Fairness Hearing. Class Counsel will submit a fee petition for the court to assess the reasonableness of the request. The Settlement also covers reasonable attorneys' fees and expenses for future monitoring of Rule 23(b)(2) Class claims. Importantly, NJDOE cannot use IDEA funds to pay these fees.
- Class Counsel will request court approval for payments of $5,000 by NJDOE to family of each of the Named Plaintiffs who initiated this lawsuit on behalf of the Classes.

Reasons for the Settlement: The law firms representing the Classes have conducted thorough investigations through extensive discovery in this case. Class Counsel carefully considered the time, cost, uncertainties, and potential benefits associated with going to trial and handling any subsequent appeals. After careful evaluation and good-faith negotiations with the help of a former United States Magistrate Judge, Class Counsel has determined that resolving the claims against NJDOE through this settlement is in the best interests of the Classes.

Effect on Class Members' Rights: The lawsuit did not seek relief for any individual claims. Therefore, the Settlement does not release any past, present, or future individual claims. If the court approves the settlement terms described above and in the Settlement for the Rule 23(b)(2) Class (systemic relief), Class Members will release any and all past and present (but not future) systemic claims.

Ability to Opt Out of the Settlement:

- *Rule 23(b)(2) Class:* People filing a due process petition with NJDOE during the court's oversight are members of this class. The relief for this class is the court order requiring NJDOE to enforce the 45-calendar day timeline. Individual members of the Class cannot opt out of the systemic relief. Those who have filed or will file due process petitions still have the right to assert individual claims.
- *Rule 23(b)(3) Class:* Members can ask to be excluded from the Settlement until the Opt-Out Deadline ([deadline]). To opt out, complete and sign the "Request for Exclusion" form, attached to this Notice and available at NJ45DayClassAction.com/optout, and mail it, postmarked on or before DEADLINE. A valid and timely exclusion request means the individual will not receive relief from the Settlement and will not be affected by it. The parties can challenge the validity of exclusion requests, and the court will decide the validity. Any Class Member not requesting exclusion is bound by the Settlement, and the release of claims

described above will apply to them. A Class Member may revoke the Request for Exclusion at any time up to [5 days before the Fairness Hearing] by emailing info@NJ45DayClassAction.com]

- Some people are members of both the Rule 23(b)(2) and Rule 23(b)(3) Classes. Those people may opt out of the Rule 23(b)(3) Class relief but will still be bound by the Rule 23(b)(2) settlement.

Right to Object or Support the Settlement: Class Members can object to the Settlement by [Objection Date]. A Fairness Hearing on [Hearing Date] will determine if the Settlement is fair, reasonable, and adequate for approval. Attendance at the hearing or hiring an attorney is optional. To support or oppose any part of the proposed Settlement, including Class Counsel's request for attorneys' fees and expenses and incentive awards for Named Plaintiffs, Class Members may file written comments or objections with the Court. Submissions must be sent by U.S. Mail or email to NJ 45 Day Class Action, 19 Chestnut Street, Haddonfield, New Jersey 08033, or info@NJ45DayClassAction.com, and C.P. Settlement, Education and Higher Education Section, R.J. Hughes Justice Complex, 25 Market Street, P.O. Box 112, Trenton, New Jersey 08625, postmarked or delivered on or before [date]. The letter or email should include the Class Member's name and current address, a statement of being a Class Member, and the case caption for this case. Providing specific reasons for objecting to or supporting the proposed Settlement will be helpful.

IMPORTANT DATES
Opt-Out Deadline: _____
Objection Deadline: _____
Fairness Hearing: _____ at _____
United States Courthouse, 4th & Cooper Streets, Camden, NJ 08101
This Notice only provides a summary of the proposed Consent Order and Settlement. You can review the entire Consent Order and Settlement Agreement, as well as the documents filed with the Court about this case by:

- Going in person during regular business hours at the Clerk's office of the United States District Court for the District of New Jersey, Mitchell H. Cohen Building & United States Courthouse, 4th and Cooper Streets, Camden, New Jersey 08101; or
- Visiting www.NJ45DayClassAction.com.

Class Counsel. The Court has appointed the following firms as Class Counsel:

Reisman Carolla Gran & Zuba LLP
Law Office of David Giles
Education Law Center
Law Office of Denise Lanchantin Dwyer LLC
Thurston Law Offices LLC
Wasserman Legal LLC

If you need further information, contact Class Counsel at info@NJ45DayClassAction.com.

PLEASE DO NOT CONTACT THE COURT WITH QUESTIONS

REQUEST FOR EXCLUSION FORM

THIS REQUEST MAY AFFECT YOUR LEGAL RIGHTS

C.P., et al. v. New Jersey Department of Education, et al.,
No. 1:19-cv-12807-NLH-MJS
United States District Court for the District of New Jersey

If you filed a Due Process Petition with NJDOE on or after May 23, 2016, and your petition, after being sent to the New Jersey Office of Administrative Law, did not receive a decision within 45 calendar days (excluding any extensions requested and granted by the ALJ), then you are considered part of the Rule 23(b)(3) Issues Class in this matter. If you choose not to participate in the settlement and wish to exclude yourself from the Class, known as "OPT-OUT," you must complete and sign the provided Request for Exclusion. Include the date and mail the form to the address provided. This form must be postmarked no later than [date], 2023.

By opting out of the settlement, (i) you will not receive any benefits from the settlement, (ii) you will not be bound by any further orders or judgments in favor of or against the Class, and (iii) you retain the ability to independently pursue any claims you asserted in this case against the Defendants by initiating your own lawsuit at your own expense.

I request to exclude myself from the Rule 23(b)(3) Issues Class in
C.P., et al. v. New Jersey Department of Education, et al.
No. 1:19-cv-12807-NLH-MJS (D.N.J.)

Name: _____

Address: _____

City _____ State _____ Zip _____

I declare under penalty of perjury under the laws of the State of _____ that the information above is true and correct.

_____ _____
Signature of the Claimant Date

Mail completed and signed Request for Exclusion to:
Reisman Carolla Gran & Zuba LLP
19 Chestnut Street
Haddonfield, New Jersey 08033

YOU MAY REVOKE THIS REQUEST FOR EXCLUSION
BY EMAILING info@NJ45DayClassAction.com
AT ANY TIME BEFORE [DATE 5 DAYS PRIOR TO FAIRNESS HEARING]