



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.

For more information: www.NJ45DayClassAction.com

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 the 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: **February 19, 2024**. 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 **February 19, 2024**. 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 **April 6, 2024** 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 **February 19, 2024**. A Fairness Hearing on **April 11, 2024** 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 **February 19, 2024**. 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: February 19, 2024

Objection Deadline: February 19, 2024

Fairness Hearing: April 11, 2024 at 11 a.m.

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

For more information: www.NJ45DayClassAction.com

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 <i>C.P., et al. v. New Jersey Department of Education, et al.</i> 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 April 6, 2024**