

Notice to Rule 23(b)(2) Class Members Regarding NJDOE's Non-Compliance With April 11, 2024 Consent Order

C.P., et al. v. New Jersey Department of Education, et al.
Case No. 1:19-cv-12807-ESK-MJS (D.N.J.)

This Notice is for all members of the Rule 23(b)(2) Class in *C.P., et al. v. New Jersey Department of Education, et al.* You are a member of the Rule 23(b)(2) class if you currently have a special education due process case pending in the New Jersey Office of Administrative Law.

On October 20, 2025, Class Counsel formally notified NJDOE of its failure to comply with the [Consent Order](#) entered by the federal court on April 11, 2024. This notification was made pursuant to Paragraph 35 of the [Consent Order](#), which authorizes the Class to seek appropriate relief, including a finding of contempt, if NJDOE fails to meet the requirements in the [Consent Order](#). Our October 20, 2025 correspondence is [available here](#).

The violations we identified include:

- **Failure to meet the required 95% compliance rate** for timely issuance of Final Decisions after full hearings. Only 15% of such cases were compliant during the most recent monitoring period.
- **Inability to measure compliance at all** for “Pending Cases” and “Final Decision – No Full Hearing” cases due to inadequate data collection and recordkeeping.
- **Failure to implement and properly use the required Adjourment Form**, which is essential for tracking hearing extensions.
- **Failure to put in place an electronic case file system to facilitate tracking of cases**, despite prior commitments and allocations of state funds.
- **Failure to provide action plans** for remedying noncompliance in each monitoring period, as required by the [Consent Order](#).
- **Resulting continued systemic violation of federal regulations** requiring final decisions within 45 days.

The [Consent Order](#) requires that, before filing a motion for contempt, Class Counsel must provide notice of the violations to NJDOE with proposed remedial action. NJDOE has 30 days to respond and then the parties must meet and confer for 30 days after that response. After the 60-day period has passed, if the parties have not reached an agreement, Class Counsel can file a motion for contempt with the Court and seek relief directly from the Judge.

Given NJDOE's persistent and systemic noncompliance, Class Counsel has proposed the appointment of a Special Master - a neutral third party with significantly more authority than the Compliance Monitor - to oversee implementation of the [Consent Order](#). The Special Master would report directly to the Court and make recommendations for Orders to ensure compliance. If we cannot reach agreement on our request for a Special Master during the meet-and-confer process mandated by the [Consent Order](#), Class Counsel will proceed with a motion for contempt.

We remain committed to protecting the rights of students with disabilities and ensuring that NJDOE fulfills its legal obligations consistent with the procedures in the April 11, 2024 [Consent Order](#). To that end, please contact us, or, if you are represented by counsel, have your attorney contact us, at info@nj45dayclassaction.com if you experience 45 day rule violations in your case.