

**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,

Civil Action No. 19-cv-12807-ESK-MJS

Edward S. Kiel, U.S.D.J.

Matthew J. Skahill, U.S.M.J.

v.

NEW JERSEY DEPARTMENT OF  
EDUCATION; DR. LILY LAUX,  
Commissioner of Education, in her  
official capacity,

Defendants.

**DECLARATION OF CATHERINE MERINO REISMAN**

I, Catherine Merino Reisman, hereby declare:

1. I am an attorney at law, admitted to practice in the Commonwealth of Pennsylvania since 1989, the State of New Jersey since 2001, and the State of New York since 2018. I am a founding partner of Reisman Gran Zuba LLP (RGZ),

formerly Reisman Carolla Gran & Zuba LLP, in Cherry Hill, New Jersey. RGZ is a member of the current Class Counsel team in this matter.

2. This Declaration is based upon my personal knowledge. If called to testify, I could and would testify competently to the facts set forth herein.

3. I submit this declaration in support of the Parties' Joint Motion to Amend Consent Order and Settlement Agreement and Request Appointment of a Special Master. The proposed Amended Consent Order and Settlement Agreement (Amended Consent Order) is attached hereto as **Exhibit 1**.

4. On April 11, 2024, after a Fairness Hearing, this Court approved the Original Consent Order and Settlement Agreement, ECF 564-3 at 31-56 (Original Consent Order). *See* ECF No. 569.

5. Since April 12, 2024, the day after approval of the Original Consent Order, Class Counsel have worked diligently, and as efficiently as possible, to represent the interests of the Class members. That work included:

- a. Reviewing and analyzing the Compliance Monitor reports;
- b. Providing information to the members of the Rule 23(b)(2) Class through the website, [www.nj45dayclassaction.com](http://www.nj45dayclassaction.com), including posting the Compliance Monitor reports as they were issued;
- c. Providing information to and responding to inquiries from members of the Rule 23(b)(3) Class regarding steps necessary to file individual claims for relief during the extended statute of limitations period by providing information as well as directing them to the website;

- d. Responding to every inquiry that has come through the email, info@nj45dayclassaction.com;
- e. Responding to every inquiry that has come by telephone to Class Counsel;
- f. Posting on the class action website a copy of the Adjournment Form that should be used to request adjournments and encouraging 23(b)(2) Class members to use the Compliance Monitor address to report violations of the Original Consent Order;
- g. Drafting instructions for the use of the Adjournment Form and providing proposed instructions to Defendants;
- h. Following up with the Compliance Monitor when informed that Class members have contacted her;
- i. Communicating and meeting with the Compliance Monitor regarding review of monitoring reports and ongoing concerns and issues related to compliance, for example, a material technical issue with the rollout of case monitoring software;
- j. Communicating and meeting with counsel for Defendants regarding, among other things, (1) the delayed receipt of incentive payments for the named plaintiffs; (2) ongoing issues with use and misuse of the adjournment form and training issues related to those forms; (3) concerns regarding implementation of initiatives without notice to or input from Class Counsel; (4) Class member concerns related to continued delays in the Office of Administrative Law; and (5) obligations of the New Jersey Department of Education (NJDOE) under the Original Consent Order to post the monitoring reports;
- k. Communicating and meeting with representatives of the *Amici Curiae* to address ongoing issues in the special education due process system;
- l. Providing notice to the Rule 23(b)(2) Class of the steps taken to pursue enforcement after October 11, 2025 by summarizing the continuing violations, explaining the steps we were proposing to remediate the situation through enhanced protections, and posting the October 20,

2025 correspondence on the website, [www.nj45dayclassaction.com](http://www.nj45dayclassaction.com); and

- m. Taking steps, as detailed in ¶ 8 below, to address NJDOE's non-compliance with the Original Consent Order in the most efficient and effective manner for the Class.

6. From April 12, 2024 through December 31, 2025, Class Counsel performed 559 hours of work related to enforcement of the Original Consent Order.

7. As of October 11, 2025, NJDOE was not in compliance with the Original Consent Order.

8. In response to NJDOE's non-compliance, Class Counsel took the following steps:

- a. As required by ¶ 15 of the Original Consent Order, on October 20, 2025, we sent correspondence (attached hereto as **Exhibit 2**) to Defendants containing notice of (i) non-compliance with the Original Consent Order, (ii) a reference to the specific provisions of the Original Consent Order that Defendants have violated, and (iii) remedial action sought;
- b. As required by the Original Consent Order, met and conferred with Defendants' counsel, on December 18, 2025, January 20, 2026, and several times thereafter, to discuss a resolution of the issues identified in the October 20, 2025 correspondence;
- c. As a result of ongoing arms-length negotiations, we reached agreement on the Amended Consent Order attached as **Exhibit 1**.

9. During monitoring since April 12, 2024, it became apparent that *pro se* petitioners in the New Jersey Office of Administrative Law are particularly negatively impacted by timeline violations. Accordingly, the Amended Consent

Order includes the following provisions in an attempt to benefit *pro se* members of the Rule 23(b)(2) Class:

- a. The Original Consent Order did not mandate that the Compliance Monitor respond to inquiries from Class members through the email address. Many of those inquiries are from *pro se* petitioners. The Amended Consent Order, in ¶ 18, requires that the Special Master or her delegee respond to inquiries regarding issues of non-compliance with the 45-Day Rule and address with NJDOE and Class Counsel those issues of non-compliance. If the inquiry is not germane to this litigation, the Special Master or her delegee must still respond, noting that it is not an issue related to this case and including contact information for the Special Education Ombudsman. Amended Consent Order ¶ 18.
- b. Within ninety days of entry of the Amended Consent Order, NJDOE and Class Counsel will draft an informative litigation guide, not intended as legal advice, for *pro se* litigants and NJDOE will ensure dissemination to all *pro se* parties at the time of filing. NJDOE will also maintain the guide on its website in an easily accessible location. Amended Consent Order ¶ 39(b).
- c. Prehearing conferences will be automatically audio-recorded for all cases in which parents or guardians are *pro se*. For represented parties, prehearing conferences will be recorded upon request. Copies of recordings will be made available, at no charge, upon request. Amended Consent Order ¶ 39(c). Currently, this policy is in place, but inclusion in the Amended Consent Order makes the policy enforceable.
- d. The Special Master shall conduct random reviews of cases, particularly those in which parents or guardians are *pro se*, that have not been scheduled for a hearing within 45 Days of Day 1 to assess compliance with the 45-Day Timeline and identify and address systemic barriers affecting the case's timely progression. Such review shall include, if available, audio recordings of prehearing conferences. Consent Order ¶ 39(e).

10. On March 12, 2026, the Commissioner of Education approved submission of the Joint Motion to Amend Consent Order and Request Appointment of a Special Master. On March 13, 2026, the Parties finalized and executed the Amended Consent Order.

11. The Parties have identified an exceptional candidate for the role of Special Master, the Honorable Jaynee LaVecchia (ret.), a former New Jersey Supreme Court Justice, who is available and willing to serve. A summary of Justice LaVecchia's qualifications and experience is attached as **Exhibit 3**.

12. Although Class Counsel could seek an order of contempt, the relief sought in the Second Amended Complaint was appointment of a federal monitor. The Amended Consent Order provides that relief through appointment of a Special Master, a remedy the parties have agreed upon, eliminating the need for the Court to adjudicate the matter over Defendants' objection. This eliminates the expense, delay, and uncertainty of a contempt proceeding and any resulting appeals.

13. Class Counsel will notify members of the Rule 23(b)(2) Class of the Motion to Amend as directed by the Court. Attached as **Exhibit 4** is a true and correct copy of the proposed Notice.

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

Executed on March 13, 2026

/s/ Catherine Merino Reisman

Catherine Merino Reisman

## EXHIBIT 1 to Declaration

**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.

**AMENDED CONSENT ORDER  
AND SETTLEMENT AGREEMENT**

THIS AMENDED CONSENT ORDER AND SETTLEMENT  
AGREEMENT is entered into by Class Counsel, on behalf of the Rule 23(b)(2) Class  
and the Rule 23(b)(3) Class (collectively “the Classes”), and Defendants New Jersey  
Department of Education (“NJDOE”) and Dr. Lily Laux (collectively

“Defendants”). The Classes and Defendants shall be referred to individually as a “Party” and jointly as the “Parties.”

**WHEREAS**, the relief afforded to the Rule 23(b)(3) Issues Class under ¶ 13 of the Consent Order and Settlement Agreement entered on April 11, 2024, ECF No. 564-3 at 31-56 (“Original Consent Order”), attached hereto as Exhibit A, is fully preserved and incorporated herein without modification; and

**WHEREAS**, the Original Consent Order requires NJDOE to ensure timely resolution of special education due process petitions in accordance with 34 C.F.R. § 300.515(a), (c); and

**WHEREAS**, the Consent Order requires a **95% Compliance** rate, as defined in Paragraph 7, *infra*; and

**WHEREAS**, the Compliance Monitor’s Fourth Report, dated November 7, 2025 (attached as Exhibit B), shows a failure to achieve the **95% Compliance** rate; and

**WHEREAS**, the power of the federal courts to appoint a Special Master to monitor compliance with their remedial orders is well established. *See, e.g., U.S. v. Apple Inc.*, 992 F. Supp. 2d 263, 280 (S.D.N.Y. 2014), *aff’d*, 787 F.3d 131 (2d Cir. 2015); *U.S. v. Yonkers Bd. of Educ.*, 29 F.3d 40, 44 (2d Cir. 1994) (same); and

**WHEREAS**, Fed. R. Civ. P. 53 authorizes appointment of a Special Master to address any “pretrial and posttrial matters that cannot be effectively and timely

addressed by an available district judge or magistrate judge,” such as enforcing complex decrees; and

**WHEREAS**, the Consent Order provides that after eighteen months, Class Counsel may seek an order of contempt and request remedial action upon a showing of material noncompliance; and

**WHEREAS**, desiring to avoid the litigation attendant to a judicial finding of contempt and enforcement of the Original Consent Order, the Parties have agreed to entry of this Amended Consent Order;

**NOW, THEREFORE, IT IS HEREBY ORDERED 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) continues to be: All persons whom 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) continues to be 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 April 11, 2024, the date of approval of the Original Consent Order.

### **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, and dismissal of a complaint with or without prejudice, including any dismissal or withdrawal following execution of a settlement agreement.

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 Special Master 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 Administrative Law Judge (“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.

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 not count **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 the 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 **Final Decision** to each of the parties.

11. For purposes for compliance with this Agreement, for all **Pending Cases** that existed on April 11, 2024, the date of the Original Consent Order’s approval by

the Court, the **45-Day Timeline** as set forth in 34 C.F.R. § 300.515(a), (c) reset and began to run on April 12, 2024, the calendar day immediately following the date of final approval of the Original Consent Order.

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 center, 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 and Amended Consent Order in a Class Action, a federal court has appointed a Special Master 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 Special Master at [45days@doe.nj.gov](mailto:45days@doe.nj.gov). You can contact Class Counsel at [info@NJ45dayclassaction.com](mailto:info@NJ45dayclassaction.com) with questions or concerns regarding the Consent Order and Amended Consent Order, which are explained [here](#).**

#### **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 the Original Consent Order on April 11, 2024 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 A SPECIAL MASTER**

14. The Parties will request that the Court appoint a Special Master pursuant to Fed. R. Civ. P. 53 to oversee implementation of this Amended Consent Order and Settlement Agreement:

- a. Former New Jersey Supreme Court Justice Jaynee LaVecchia has agreed, if appointed by the Court, to serve as a Special Master. The Parties will request that the Court appoint Justice LaVecchia as a Special Master and provide a proposed form of Order for the Court's consideration, review, revision as deemed necessary by the Court, and entry, should the Court agree that Justice LaVecchia is an appropriate candidate.
- b. NJDOE is responsible for compensating the Special Master at the Special Master's hourly rate. Objection to a request for payment of fees or expenses incurred by the Special Master shall not be a basis for Defendants to object to or refuse to comply with a recommendation made by the Special Master or ordered by the Court.
- c. If, in the future, the Special Master becomes permanently unavailable for any reason or is unable to fulfill the duties of the Special Master, 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.

- d. If the Special Master determines that the efficient administration of her duties requires the assistance of additional professionals or support staff or expert consultants, the Special Master has the authority to employ those professionals or support staff at NJDOE's expense.

## **VII. ROLE, DUTIES, AND AUTHORITY OF THE SPECIAL MASTER AND PLAN FOR COMPLIANCE**

15. The general role of the Special Master is to (a) work with the Parties to develop a Compliance Plan designed to achieve **95% Compliance** with 34 C.F.R. § 300.515 as defined in ¶ 7 of this Amended Consent Order; (b) submit that Compliance Plan to the Court to be adopted as an Order; (c) report to the Court at least every four months as to whether NJDOE is meeting the goals set forth in the Compliance Plan; (d) modify the Compliance Plan as necessary, with input from the Parties and approval of the Court; and (e) otherwise seek remedial Orders from the Court designed to achieve the required **95% Compliance**.

16. The Special Master's duties shall be as follows:

- a. Within a reasonable timeframe established by the Special Master, the Special Master shall work with the Parties to develop a Compliance Plan reasonably calculated to ensure **95% Compliance**, as defined in this Consent Order. The Compliance Plan shall include (a) benchmarks to

measure progress toward achieving **95% Compliance**; (b) a description of the specific actions and responsibilities expected of Defendants to achieve compliance; (c) a detailed outline of the work the Special Master intends to perform; (d) presumptive deadlines by which specific actions and responsibilities will be completed by Defendants and specific benchmarks to measure progress will be achieved; and (e) a target date for achieving **95% Compliance**.

- b. The Special Master shall, without limitation, oversee and monitor implementation of the Compliance Plan; review and analyze data related to compliance; identify and address barriers to compliance, through the development and implementation of targeted interventions; 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; oversee, monitor, measure, assess, and report upon NJDOE's progress under the Compliance Plan toward achieving **95% Compliance**; and seek remedial Orders from the Court if NJDOE is not making progress required by the Compliance Plan. The foregoing examples are illustrative and not an express limit on the actions the Special Master may take to achieve **95% Compliance**.

- c. The Special Master shall examine the impact of all initiatives, interventions, and corrective actions designed to rectify non-compliance with the **45-Day Timeline** on all due process litigants, including *pro se* parents, and will make any necessary adjustments to ensure they are not negatively impacted.
- d. At the Special Master's discretion, and with input from the Parties, interventions to be addressed in the Compliance Plan may include, but are not limited to: review and assessment of Memoranda of Understanding between NJDOE and NJOAL from 2020 through the present; review and assessment of staffing needs at NJOAL; dissemination of instructions for requesting adjournments using the Adjournment Form to all ALJs, parties, and counsel involved in special education matters at NJOAL by inclusion of those instructions in the special education transmittal package, as well as by broadcast and posting on NJDOE and NJOAL websites; and, when NJOAL'S electronic case management system is in place, dissemination of instructions for requesting adjournments using that case management system to all ALJs, parties, and counsel involved in special education matters at NJOAL by inclusion of those instructions in the special

education transmittal package, as well as by broadcast and posting on NJDOE and NJOAL websites.

- e. In order to ensure consideration of input from all stakeholders, the Special Master shall meet at least every two months, or more often if the Special Master deems necessary, with Class Counsel (no more than two members of the Class Counsel team) and counsel for Defendants, separately or together, at the Special Master's discretion or upon request of counsel. The Special Master may include Class members and other stakeholders in such meetings at her discretion.

17. With respect to access to information and data:

- a. The Special Master shall have full access to any and all information and data from NJDOE necessary for the Special Master's role and duties. Data includes, but is not limited to, the data compiled by the employee referenced in Paragraph 35(d), *infra*; information needed to determine, measure, and analyze the presence and causes of non-compliance, and barriers to compliance with the **45-Day Timeline**; and information needed to measure, assess, and report upon the effects of interventions developed to address non-compliance. NJDOE shall make all reasonable efforts, recognizing that time is of the essence, to obtain and provide any and all information and data the Special Master requests, including

information and data in the custody and control of NJOAL. Once the information is provided to NJDOE, NJDOE will provide that information to the Special Master in a timely manner.

- b. If not satisfied by the production of information and data by NJDOE, the Special Master shall have the authority to undertake any necessary investigation to obtain data and information relevant to the causes of non-compliance and barriers to compliance with the **45-Day Timeline**.
- c. When NJOAL's electronic case management system is in place, the Special Master shall have full access to that system and shall conduct random audits of cases to verify compliance and identify barriers to compliance.
- d. When NJOAL's electronic case management system is in place, the Special Master shall review and assess the functionality and accuracy of that system.

18. The Special Master or her delegee will respond to inquiries regarding issues of non-compliance related to the 45-Day Timeline from Rule 23(b)(2) Class members who contact the Special Master through the [45days@doe.nj.gov](mailto:45days@doe.nj.gov) email address (described in Paragraph 31, *infra*), and will address with NJDOE and Class Counsel issues of non-compliance related to the 45-Day Timeline raised by Rule 23(b)(2) Class members. If the inquiry is not germane to non-compliance related to

the 45-Day Timeline, the Special Master or her delegee will provide a response that so notes and includes contact information for the Special Education Ombudsman.

19. The Special Master shall conduct individual, confidential interviews to the extent necessary to verify and supplement the data collection process. The Special Master shall ensure that the confidentiality of persons interviewed, and of identifying information shared, is protected unless the interviewee permits disclosure.

20. Upon the Court's initiative, or at the request of the Special Master, or by motion of one or both Parties, the Court may modify the duties of the Special Master upon further order of the Court.

21. The Special Master shall function independently of Defendants and the Class, and their respective counsel, and will perform these duties impartially.

### **VIII. ADJOURNMENT FORM**

22. Until NJOAL's electronic case management system is operational and the Special Master has verified that it is accurately tracking cases, an Adjournment Form (attached to the Original Consent Order as Exhibit A) will be used to track specific extensions of time requested by a party and granted by the ALJ. Each Adjournment Form will be maintained in the electronic case file for each matter.

### **IX. COMPLIANCE REPORTING**

23. On a monthly basis, starting thirty days after entry of the Order appointing a Special Master pursuant to Federal Rule of Civil Procedure 53, NJDOE will

provide to the Special Master the data needed to assess compliance as set forth at Paragraph 7 above. df

24. To assess compliance, and to test the accuracy of NJOAL's electronic case management system once it is operational, the Special Master 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, established 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).

25. To assess compliance, and to test the accuracy of NJOAL's electronic case management system once it is operational, the Special Master may review the following documents for each **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, established 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;

- c. All scheduling orders (including the initial scheduling order); and
- d. The dated and signed order of dismissal or notice of withdrawal (including a dismissal or withdrawal following a settlement) the final decision in the case issued after a hearing, and/or any other decisions disposing of the case.

26. The Special Master shall submit a written report to the Court every four months, or at a shorter regular interval should the Special Master so choose. The report shall include, but not be limited to, a summary of NJDOE's progress toward benchmarks in the Compliance Plan, stakeholder input, and the initiatives, interventions, and corrective actions put in place during that reporting period to address the problem and results of same; data collected during that reporting period; a discussion of the causes of non-compliance and the barriers to compliance; a summary of the steps taken by NJDOE during that reporting period to identify and address the causes of non-compliance; a summary of the actions that NJDOE will take in the next reporting period to rectify noncompliance; and how said actions will be measured and assessed. The report shall also address, among other data points, in both matched and aggregate (where appropriate and in accordance with this Agreement) format on a monthly basis and reporting 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).

27. The Special Master shall use the information set forth in Paragraphs 24 through 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.**

28. If deemed necessary to remedy continued non-compliance, the Special Master shall make recommendations for remedial or coercive Orders requiring corrective action.

29. The Special Master shall follow the timeline and process below when issuing a report:

- a. Prior to submitting a written report to the Court, the Special Master shall provide the Parties with a draft report no later than 30 days following the conclusion of each four-month reporting period.
- b. The Parties will have 15 days from receiving the draft report to provide comments to the Special Master.
- c. The Special Master will issue the final report within 30 days of providing the Parties with the draft report. If either Party fails to provide timely input in accordance with Paragraph 27(b), the Special Master may finalize the report without that Party's input.

30. The Special Master shall file the final report for each reporting period on the docket. Within five business days of the filing, NJDOE shall post a copy of the report with redaction of any personally identifiable information, on its website in a clearly marked and accessible location.

#### **X. OPPORTUNITY FOR INPUT TO SPECIAL MASTER**

31. NJDOE will continue to 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 maintaining the email [45days@doe.nj.gov](mailto:45days@doe.nj.gov) accessible to the Special Master. The

Special Master shall regularly check the email account and may choose to disclose this input within the reports to the Court.

#### **XI. ENFORCEMENT AFTER EIGHTEEN MONTHS**

32. The Parties incorporate Section XI of the Original Consent Order into this Consent Order and Agreement.

#### **XII. INCENTIVE PAYMENTS**

33. The provisions of Section XII of the Original Consent Order have been fulfilled and are no longer applicable.

#### **XIII. ATTORNEY'S FEES**

34. The Parties incorporate Paragraphs 37 and 38 of the Original Consent Order into this Consent Order and Agreement. Paragraphs 39 through 43 of the Original Consent Order have been fulfilled and are no longer applicable.

35. The Parties amend Paragraph 44 of the Original Consent Order to say: Prospectively, Class Counsel will submit fee request on a quarterly basis, beginning with the first quarter of 2026. The Parties shall meet and confer in an attempt to achieve agreement on the amount of the payment. If the Parties cannot reach agreement, Class Counsel will file a fee petition with the Court. NJDOE will remit payment within sixty days of the bill. If fees are determined by the Court, NJDOE will remit payment within sixty days of the Court Order.

#### **XIV. REMAINING PROVISIONS OF ORIGINAL CONSENT ORDER**

36. Section XIV of the Original Consent Order is no longer applicable, as the Court approved the settlement on April 11, 2024 after notice and a hearing.

37. Section XV, XVI, XVII, and XVIII of the Original Consent Order are incorporated fully herein by reference.

38. Section XIX is no longer applicable, because final judgment has already been entered.

## **XV. RELIEF**

39. NJDOE agrees to the following additional relief for members of the Rule 23(b)(2) Class:

- a. As set forth in Sections VI and VII, *supra*, NJDOE agrees to appointment of a Special Master.
- b. To assist *pro se* parties, within ninety days of the entry of this Order, Class Counsel, in consultation with NJDOE, will draft an informative litigation guide, not intended as legal advice, for *pro se* litigants and NJDOE will ensure dissemination to all *pro se* parties at the time of filing. NJDOE will also maintain the guide on its website in an easily accessible location.
- c. Prehearing conferences will be automatically audio-recorded for all cases in which parents or guardians are *pro se*. For represented parties,

prehearing conferences will be recorded upon request. Copies of recordings will be made available, at no charge, upon request.

- d. NJDOE will fund a full-time employee within the NJOAL whose role includes maintaining data on cases pending in the NJOAL and report that data to NJDOE, Class Counsel, and the Special Master. This full-time employee will produce any data requested by the Special Master that NJOAL maintains and is capable of producing. Any data provided to Class Counsel will be anonymized.
- e. The Special Master shall conduct random reviews of cases, particularly those in which parents or guardians are *pro se*, that have not been scheduled for a hearing within **45 Days of Day 1** to assess compliance with the **45-Day Timeline** and identify and address systemic barriers affecting the case's timely progression. Such review shall include, if available, audio recordings of prehearing conferences.

**CLASS COUNSEL**

/s/ Catherine Merino Reisman

Catherine Merino Reisman  
Reisman Gran Zuba LLP

/s/ Elizabeth Athos

Elizabeth Athos  
Education Law Center

/s/ David R. Giles

David R. Giles  
Law Office of David Giles

/s/ Denise Lanchantin Dwyer

Denise Lanchantin Dwyer  
Law Office of Denise L. Dwyer, LLC

/s/ Jeffrey I. Wasserman

Jeffrey I. Wasserman  
Wasserman Little LLC

Dated: March 13, 2026

**COUNSEL FOR DEFENDANTS**

/s/ Daniel F. Dryzga

Daniel F. Dryzga, Jr.  
Assistant Attorney General

Dated: March 13, 2026

**AMENDED CONSENT ORDER AND SETTLEMENT AGREEMENT,  
INCLUDING RETENTION OF JURISDICTION FOR ENFORCEMENT,  
APPROVED BY THE COURT:**

Dated and entered this \_\_\_\_\_ day of \_\_\_\_\_, 2026

\_\_\_\_\_  
Edward S. Kiel  
United States District Judge

# EXHIBIT A

**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 reimplementations 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**

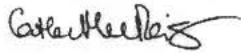
62. Upon approval and entry of this Consent Order by the Court, this Consent Order shall constitute a final judgment of the Court. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

**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

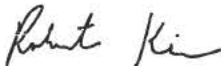
**FOR THE CLASS**



\_\_\_\_\_  
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

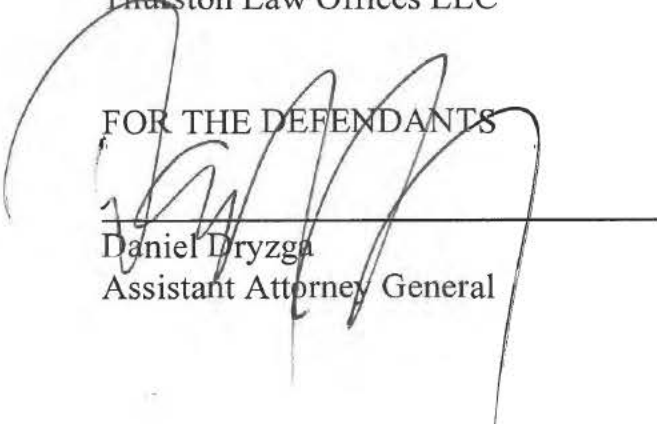


\_\_\_\_\_  
Robert C. Thurston  
Thurston Law Offices LLC



\_\_\_\_\_  
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 B

**C.P. v. New Jersey Department of Education**

Civil Action No. 19-cv-12807-NLH-MJS

**FINAL  
COMPLIANCE REPORT #4**

November 7, 2025

Submitted by

Lenore Knudtson  
Compliance Monitor

## I. Overview

This reporting period covers the months of May through August 2025. A 10 day extension of the report due date was granted by counsel in order to permit the Compliance Monitor to have another meeting with NJDOE. The extension was necessary because staff critical to the process was out of the office on a scheduled time off.

The parties meet regularly with the Compliance Monitor to share information, concerns, and updates. NJDOE and OAL continue to report an improved working relationship between the agencies with regular meetings and collaboration. Several metrics indicate that improvement in the New Jersey Due Process Hearing system continues, but not at the rate to be considered compliant pursuant to the Consent Decree.

## II. Summary of Initiatives, Interventions, and Corrective Actions

To date, the parties have implemented the following initiatives:

- Contemporaneous notice from NJDOE to OAL when a due process hearing request is filed at NJDOE. Improving communication was a first step in the journey to rebuilding a compliant due process hearing system. Likewise, inclusion of NJDOE on the distribution list for copies of all adjournments, orders, and decisions provides valuable information for NJDOE to track the status of cases within its due process hearing system.
- Immediate transmittal upon a public agency filing of a due process hearing request. During this reporting period, there were no occurrences of late transmittals when a public agency filed the due process hearing request. In the past, a delayed transmittal on a district filed due process hearing request resulted in OAL often receiving the case after the decision deadline had already passed. The delayed transmittals in public agency filed cases is, at this point, at zero, demonstrating 100% compliance on this data point.
- Improved tracking of resolution timelines to ensure transmittal consistent with N.J.A.C. 6A:14-2.7(h). Collaborative data tracking between agencies has

improved consistently, eliminating delays due to late transmittal after the resolution period.

- Use of the Adjournment Form pursuant to the Consent Decree. Use of the Adjournment Form has improved but falls short of compliance at the level specified in the Consent Decree. It is anticipated that the Adjournment Form will continue to be used to help document the life cycle of every due process matter extended beyond the 45 day timeline for the foreseeable future.

The OAL reports that ALJs were initially trained on use of the adjournment form through instruction from the Acting Chief Judge. Training continued as described below.

- April 4, 2025: Adjournment form training on all three campuses.
- June 2, 2025: Memo disseminated to all ALJs on counting the 45 days along with a written recap of the April 4<sup>th</sup> training.
- June, July, and August 2025: Lunch and learn with ALJs on all three campuses to review and reinforce appropriate use of the adjournment form.
- October 6, 2025: Reissuance of the April 4<sup>th</sup> recap and the June 2<sup>nd</sup> memo to all ALJs.

In an effort to provide specific information on cases involving nonconforming use of the adjournment form, the Compliance Monitor has commenced sending OAL copies of some forms considered noncompliant, permitting OAL to specifically address the appropriate use of the form with the ALJ in that matter.

- Utilizing ALJs to conduct due process related mediation was a significant change to the system. For due process related mediation, the OAL assigns an ALJ to conduct the mediation. OAL reports that ALJs conducting the mediations have received training in mediation techniques and will continue to receive follow up training in a regular basis. Specifically, OAL confirmed that each ALJ assigned to conduct mediation pursuant to the IDEA receives training in both special education and mediation techniques. The initial training must be completed within the first three months and includes:
  - Onboarding of all ALJs prior to assignment of a special education case -

- Special education training modules developed by Perry Zirkel, a well-known professor and author in special education law. The training is comprised of nine modules lasting at least 2 hours each. It is designed to be completed in four months.
- Two hour orientation on special education cases from the Acting Chief Judge.
- Annual and ongoing special education law training for all ALJs through case law updates provided by Perry Zirkel.
- Full day trainings on special education topics for all ALJs on subjects like dyslexia, autism, etc.
- Mediation training according to OAL -
  - Technical and clinical instruction twice monthly for 6 months. After six months, ALJs continue to receive reinforcement training on a regular basis, also twice monthly. ALJs are not assigned to conduct IDEA mediation until the ALJ has been in the training program for at least one year and has obtained a mastery level.
  - Training is provided by Dave Fischer of Chartwell Seventeen Advisory Group, a certified Sandler Training Center. Sandler provides a diverse array of training. Information provided to the Compliance Monitor on Mr. Fischer's training included: "He helps professionals sharpen their communication style, negotiate more effectively, mediate disputes, and improve collaboration with confidence."
  - Training is also provided by Susan Villamena. According to information provided by OAL, "Her expertise includes communication training and development, leadership coaching, and equipping professionals at all levels with the confidence to handle difficult discussions, ask insightful questions, negotiate more effectively, mediate disputes, and set clear expectations."

See the recommendation section of this report for additional information on mediation training.

- PEGA, OAL's online case management system entered the live testing phase with OAL staff. Although significantly delayed, the commencement of live testing is a positive step forward to collecting reliable and accurate real time data regarding New Jersey's due process hearing system. OAL reports that 10 of 10 scheduled staff trainings have been completed with OAL staff. The Compliance Monitor is scheduled to receive live training on the system during the last week of October. After that training, the Compliance Monitor will have full access to all data and documentation housed within the online case management system. See the recommendation section of this report for additional information on PEGA and its implementation.

UPDATE: The Compliance Monitor received three hours of live training on the new online case management system while it was still in the beta stage during data migration from the old system to PEGA. Once fully operational (mid November), PEGA will provide the Compliance Monitor with access to real time data and reporting features to track cases from beginning to end. The Compliance Monitor will be able to calculate the age of any case using the case number. The system represents a substantial improvement in New Jersey's ability to account for due process hearing timelines, issue aggregate reports on timeliness, and provide transparent data to the parties.

### **III. Mandatory Data Collection**

#### **Reporting Period from May 2025 to August 2025**

The Compliance Monitor received the following due process data from NJDOE:

- Filing dates,
- Case numbers and names,
- Resolution period and extensions,
- Mediation dates,
- OSE disposition, and
- Transmittal dates.

The Compliance Monitor received the following due process data from OAL:

- Copies of all adjournment forms,
- Copies of all decisions issued in due process matters,
- Copies of all transmittal forms received from NJDOE,
- Reset case status and pending events,
- Pending cases,
- Newly opened cases, and
- Closed cases.

The data is provided in spreadsheet format. To date, there is no searchable database with real time data collection. Although the spreadsheets are helpful, all data verification and cross referencing is completed manually, and as a result, more prone to error. NJDOE and OAL have been available to answer the Compliance Monitor's questions, provide clarification as needed, and provide additional documentation as needed.

#### **A. NJDOE Monthly Data**

Each month, data from May 2025 to August 2025 is compiled and summarized below, including the number of new cases for the month, cases withdrawn or resolved prior to transmittal, the number of transmittals for new cases as well as all prior month's cases transmitted in that month, analyzed for timeliness. The purpose of closely analyzing transmittal data is to understand the root causes of late due process decisions issued beyond the 45 day timeline, or properly extended timeline. Delayed transmittals have previously contributed to the potential for late due process decisions. Considerable growth was made, with the vast majority of cases transmitted from NJDOE to OAL in a timely manner.

UPDATE: The Compliance Monitor met with NJDOE staff on October 21, 2025 to review noncompliant transmittals. NJDOE was able to provide documentation to support amending the reason for late transmittals in four matters to more accurately reflect the events as they occurred. The amendments, in red below, do not change the total number of noncompliant transmittals. The reason for the late transmittal was the only change. NJDOE informed the Compliance Monitor that the process used to track when

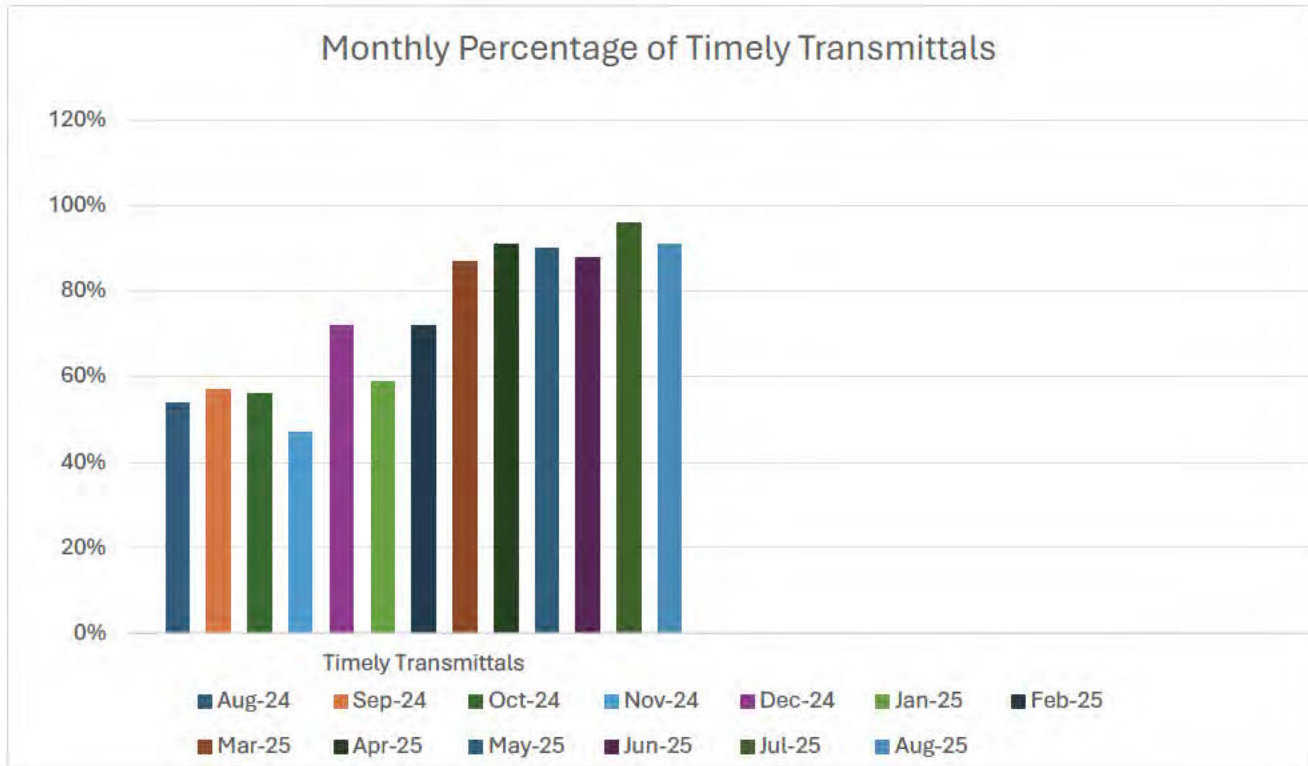
a party withdraws from mediation has been improved and assured that late transmittals due to late notification from OAL is no longer occurring.

| <b>MAY 2025 DATA</b>   |   |                                      |   |   |   |              |
|--|---|--------------------------------------|---|---|---|--------------|
| <b>Number of New Cases</b>   | <b>Cases Resolved/Withdrawn Prior to Transmittal</b>  |                                      |   | <b>Number of Transmittals for New Cases</b> |   |              |
| 80   | 18<br>(7 settled in mediation, 3 in resolution.)  |                                      |   | 11  |   |              |
| <b>NJDOE Transmittals</b>  |   |                                      |   |   |   |              |
| Original Filing Month  | Number of Cases Transmitted May 2025  | Transmitted Timely with NO Extension | Transmitted after Resolution Extended for Mediation | Percent Timely                              | Resolution Improperly Extended*                                     | Percent Late |
| December 2024  | 1   | 0                                    | 1<br>(4 mediation sessions)                         | 100%  | 0<br>0 – late OAL notice<br>0 – district filing<br>0 – late unknown | 0%           |
| February 2025  | 5   | 0                                    | 5   | 100%  | 0<br>0 – late OAL notice<br>0 – district filing<br>0 – late unknown | 0%           |
| March 2025   | 6   | 1                                    | 5   | 100%  | 0<br>0 – late OAL notice<br>0 – district filing<br>0 – late unknown | 0%           |
| April 2025   | 37  | 27                                   | 4   | 84%   | 6<br>3 – late OAL notice<br>0 – district filing<br>3 – late unknown | 16%          |
| May 2025   | 11  | 11                                   | 0   | 100%  | 0<br>0 – late OAL notice<br>0 – district filing<br>0 – late unknown | 0%           |
| <b>TOTAL</b>   | <b>60</b>   | <b>39</b>                            | <b>15</b>   | <b>90%</b>                                  | <b>6</b>  | <b>10%</b>   |
| * NJDOE notes indicated the reason for some of the late transmittals was lack of notice of the end of resolution or mediation. Per OAL and NJDOE, this error has been corrected. |   |                                      |   |   |   |              |
| <b>COMPARISON</b>  | <b>OAL Receipt of Transmittals in May 2025</b><br>60 NJDOE transmittals vs. 70 reported received by OAL 7 of the cases were expedited/emergent, which are not included in the above table. The remaining difference could be attributed to duplication of cases at OAL due, in part, to partial transmittals for sufficiency challenges or cases filed under Section 504. |                                      |   |   |   |              |

| <b>JUNE 2025 DATA</b>  |  |  |   |                |   |              |
|--|--|--|---|----------------|---|--------------|
| <b>Number of New Cases</b>   |  | <b>Cases Resolved/Withdrawn Prior to Transmittal</b> |   |                | <b>Number of Transmittals for New Cases</b>                         |              |
| 103  |  | 18<br>(7 settled in mediation, 3 in resolution.)     |   |                | 18  |              |
| <b>NJDOE Transmittals</b>  |  |  |   |                |   |              |
| Original Filing Month  | Cases Transmitted June 2025  | Transmitted Timely with NO Extension                 | Transmitted after Resolution Extended for Mediation | Percent Timely | Resolution Improperly Extended                                      | Percent Late |
| December 2024  | 1  | 0  | 1<br>(7 mediation sessions)                         | 100%           | 0<br>0 – late OAL notice<br>0 – district filing<br>0 – late unknown | 0%           |
| February 2025  | 1  | 0  | 1<br>(3 mediation sessions)                         | 100%           | 0<br>0 – late OAL notice<br>0 – district filing<br>0 – late unknown | 0%           |
| March 2025   | 2  | 0  | 0   | 0%             | 2<br>2 – late OAL notice<br>0 – district filing<br>0 – late unknown | 100%         |
| April 2025   | 5  | 0  | 2   | 40%            | 3<br>2 – late OAL notice<br>0 – district filing<br>1 – late unknown | 60%          |
| May 2025   | 33   | 28   | 3   | 94%            | 2<br>1 – late OAL notice<br>0 – district filing<br>1 – late unknown | 6%           |
| June 2025  | 18   | 18   | 0   | 100%           | 0<br>0 – late OAL notice<br>0 – district filing<br>0 – late unknown | 0%           |
| <b>TOTAL</b>   | <b>57</b>  | <b>43</b>  | <b>7</b>  | <b>88%</b>     | <b>7</b>  | <b>12%</b>   |
| * NJDOE notes indicated the reason for some of the late transmittals was lack of notice of the end of resolution or mediation. Per OAL and NJDOE, this error has been corrected. |  |  |   |                |   |              |
| COMPARISON   | <b>OAL Receipt of Transmittals in June 2025</b><br>57 NJDOE transmittals vs. 67 reported received by OAL 8 of the cases were expedited/emergent, which are not included in the above table. The remaining difference could be attributed to duplication of cases at OAL due, in part, to partial transmittals for sufficiency challenges or cases filed under Section 504. |  |   |                |   |              |

| <b>JULY 2025 DATA</b>  |   |                                      |   |   |   |              |
|--|---|--------------------------------------|---|---|---|--------------|
| <b>Number of New Cases</b>   | <b>Cases Resolved/Withdrawn Prior to Transmittal</b>  |                                      |   | <b>Number of Transmittals for New Cases</b> |   |              |
| 93   | 18<br>(7 settled in mediation, 1 in resolution.)  |                                      |   | 13  |   |              |
| <b>NJDOE Transmittals</b>  |   |                                      |   |   |   |              |
| Original Filing Month  | Cases Transmitted July 2025   | Transmitted Timely with NO Extension | Transmitted after Resolution Extended for Mediation | Percent Timely                              | Resolution Improperly Extended                                      | Percent Late |
| March 2025   | 1   | 0                                    | 1<br>(5 mediation sessions)                         | 100%  | 0<br>0 – late OAL notice<br>0 – district filing<br>0 – late unknown | 0%           |
| April 2025   | 1   | 0                                    | 1<br>(3 mediation sessions)                         | 100%  | 0<br>0 – late OAL notice<br>0 – district filing<br>0 – late unknown | 0%           |
| May 2025   | 4   | 0                                    | 3   | 75%   | 1<br>1 – late OAL notice<br>0 – district filing<br>0 – late unknown | 25%          |
| June 2025  | 36  | 29                                   | 6   | 97%   | 1<br>1 – late OAL notice<br>0 – district filing<br>0 – late unknown | 3%           |
| July 2025  | 13  | 13                                   | 0   | 100%  | 0<br>0 – late OAL notice<br>0 – district filing<br>0 – late unknown | 0%           |
| <b>TOTAL</b>   | <b>55</b>   | <b>42</b>                            | <b>11</b>   | <b>96%</b>                                  | <b>2</b>  | <b>4%</b>    |
| * NJDOE notes indicated the reason for some of the late transmittals was lack of notice of the end of resolution or mediation. Per OAL and NJDOE, this error has been corrected. |   |                                      |   |   |   |              |
| <b>COMPARISON</b>  | <b>OAL Receipt of Transmittals in July 2025</b><br>55 NJDOE transmittals vs. 64 reported received by OAL. 5 of the cases were expedited/emergent, which are not included in the above table. The remaining difference could be attributed to duplication of cases at OAL due, in part, to partial transmittals for sufficiency challenges or cases filed under Section 504. |                                      |   |   |   |              |

| <b>AUGUST 2025 DATA</b>    |   |                                      |   |   |   |              |
|----------------------------|---|--------------------------------------|---|---|---|--------------|
| <b>Number of New Cases</b> | <b>Cases Resolved/Withdrawn Prior to Transmittal</b>  |                                      |   | <b>Number of Transmittals for New Cases</b> |   |              |
| 88                         | 3   |                                      |   | 14  |   |              |
| <b>DOE Transmittals</b>    |   |                                      |   |   |   |              |
| Original Filing Month      | Cases Transmitted August 2025   | Transmitted Timely with NO Extension | Transmitted after Resolution Extended for Mediation | Percent Timely                              | Resolution Improperly Extended                                      | Percent Late |
| March 2025                 | 2   | 0                                    | 1<br>(5 mediation sessions)                         | 50%   | 1<br>1 – late OAL notice<br>0 – district filing<br>0 – late unknown | 50%          |
| April 2025                 | 1   | 0                                    | 1<br>(2 mediation sessions)                         | 100%  | 0<br>0 – late OAL notice<br>0 – district filing<br>0 – late unknown | 0%           |
| May 2025                   | 4   | 0                                    | 2<br>(3 & 2 mediation sessions)                     | 50%   | 2<br>1 – late OAL notice<br>0 – district filing<br>1 – late unknown | 50%          |
| June 2025                  | 16  | 0                                    | 12<br>(1 to 3 mediation sessions)                   | 75%   | 4<br>0 – late OAL notice<br>0 – district filing<br>4 – late unknown | 25%          |
| July 2025                  | 40  | 38                                   | 2   | 100%  | 0<br>0 – late OAL notice<br>0 – district filing<br>0 – late unknown | 0%           |
| August 2025                | 14  | 14                                   | 0   | 100%  | 0<br>0 – late OAL notice<br>0 – district filing<br>0 – late unknown | 0%           |
| <b>TOTAL</b>               | <b>77</b>   | <b>52</b>                            | <b>18</b>   | <b>91%</b>                                  | <b>7</b>  | <b>9%</b>    |
| <b>COMPARISON</b>          | <b>OAL Receipt of Transmittals in August 2025</b><br>77 NJDOE transmittals vs. 73 reported received by OAL. 7 of the cases were expedited/emergent, which are not included in the above table. The remaining difference could be attributed to duplication of cases at OAL due, in part, to partial transmittals for sufficiency challenges or cases filed under Section 504. |                                      |   |   |   |              |



From the August 2024 to August 2025, NJDOE has demonstrated improvement in timely transmittals to OAL with nearly all monthly compliance rates over 90% since March 2025. Late transmittals for scheduling settlement conferences are no longer a contributing factor to late due process decisions. Similarly, district filed due process hearing requests are immediately transmitted, as the resolution period does not exist in these matters. There was no documented noncompliance with immediate transmittals on district filed cases. The only documented delays in transmittals continue to be random without any clear indication of a root cause. Although the NJDOE data is greatly improved and represents substantial compliance with N.J.A.C. 6A:14-2.7(h), it is recommended that the agency continue to devote resources and put safeguards in place to ensure timely transmittals moving forward.

**B. OAL Data Summary**

OAL continues to collect and report all data requested without the benefit of an automated data collection system. The target dates for live implementation of PEGA, the online case management system have been further delayed. The most recent

estimate provided by OAL anticipates a live date in October. When that system is online, the Compliance Monitor will be able to readily ascertain the age of a case from filing to conclusion.

**ADJOURNMENT DATA**

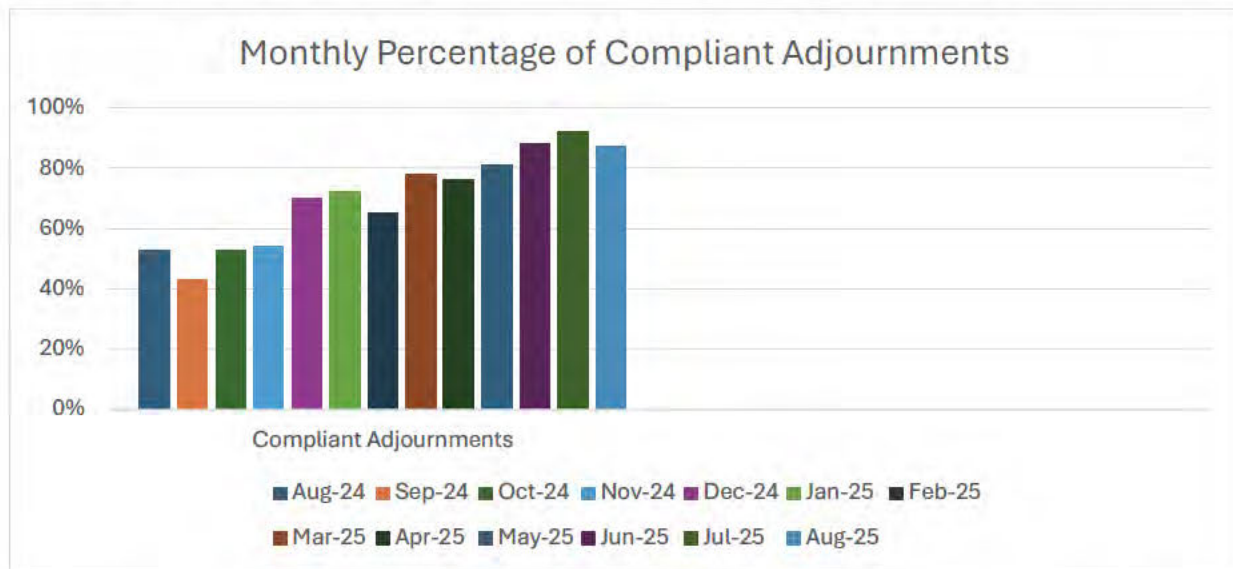
Without some type of automated system, data is manually pulled from respective case files, and compiled on spreadsheets, making it impossible to track the “age” of a case on any given date. As required by the Consent Decree, the completed adjournment forms are a major source of information for determining compliance with appropriately extended due process timelines. For this report, all adjournment forms were reviewed to provide critical information regarding the timeliness of every due process matter. Also, the veracity of the data contained in each adjournment form is dependent on accurate and thorough documentation by the ALJ. Therefore, forms without the critical required information to determine the length of an extension and a new decision deadline were considered noncompliant. The following table represents a detailed analysis of adjournments from May to August 2025.

| <b>OAL ADJOURNMENT DATA</b> |                               |  |   |   |   |
|-----------------------------|-------------------------------|--|---|---|---|
| <b>Month</b>                | <b>Number of Adjournments</b> | <b>Range of Days Hearing Deadline Was Extended</b> | <b>Number of Noncompliant Adjournments<sup>^</sup></b>  | <b>Number of Compliant Adjournments<sup>*</sup></b> | <b>Percentage of Forms Documenting Compliant Adjournments</b> |
| May 2025                    | 70                            | 1 – 490  | 13<br>0 – ALJ initiated<br>0 – No ext. length<br>0 – No new due date<br>13 – Incorrect date calculation | 57  | 81%   |
| June 2025                   | 50                            | 7 – 246  | 6<br>0 – ALJ initiated<br>1 – No ext. length<br>1 – No new due date<br>4 – Incorrect date calculation   | 44  | 88%   |
| July 2025                   | 36                            | 7 – 180  | 3<br>0 – ALJ initiated<br>1 – No ext. length<br>1 – No new due date<br>3 – Incorrect date calculation   | 33  | 92%   |

|                |  |            |   |            |            |
|----------------|--|------------|---|------------|------------|
| August 2025    | 30   | 18 – 181   | 4<br>0 – ALJ initiated<br>0 – No ext. length<br>0 – No new due date<br>4 – Incorrect date calculation | 26         | 87%        |
| <b>Total</b>   | <b>186</b>   | <b>N/A</b> | <b>26</b>   | <b>160</b> | <b>86%</b> |
| <b>SUMMARY</b> | Each adjournment form was reviewed to verify appropriate extensions to the decision deadline. Incorrect date calculations account for most errors. |            |   |            |            |

^ Adjournment forms may be noncompliant for more than one reason.

\* Substantial compliance with Adjournment Form determined by confirming the extension resulted from the request of a party, was granted by the ALJ, documented the length of the extension, and provided a new decision due date.



Although compliant use of the adjournment form continues to increase signaling appropriate extensions of the 45 day due process hearing timeline, the 86% compliance rate for this reporting period falls short of the 95% compliance goal in the Consent Decree.

### RESET CASES

Pursuant to paragraph 11 of the Consent Decree, all 198 pending cases that existed on the date the Decree was approved by the Court were “reset” and the timeline for each case began anew on the calendar day immediately following approval of the Decree. The following Reset cases remain open during this reporting period:

- May 2025 – 19 cases remain open
- June 2025 – 19 cases remain open
- July 2025 – 14 cases remain open

- August 2025 – 12 cases remain open

**FINAL DECISION DATA**

As required by the Consent Decree, the Compliance Monitor reports on specific data points. The following tables represents the mandatory compliance data as specified in the Consent Decree.

| <b>Final Decisions – Post Full Hearing</b><br>(Emergent and expedited hearings excluded.) |                        |  |                   |
|---|------------------------|--|-------------------|
| <b>Month</b>  | <b>Number of Cases</b> | <b>Case Summary</b>  | <b>Compliance</b> |
| May 2025  | 3                      | EDS 13866-19. Petition: 8/30/2019, becoming a Reset case on 4/11/2024. The District completed its case in chief on December 15, 2020. The parents' hearing dates were originally schedule for April 20, 23, and 30, 2021. At the request of the parents, hearing dates were rescheduled for July 6, 9, and 13, 2021. The parents requested an adjournment until September 20, October 1 and 4, 2021. Those dates were adjourned at the parties' joint request for settlement discussions. The hearing was rescheduled for December 2, 2021 and later adjourned by joint request of the parties due to ongoing settlement discussions and the unavailability of the parents' expert. 2022 hearing dates were adjourned at the request of the parties. Hearing dates were scheduled and adjourned in 2023 for various reasons of the parties. The mother and student withdrew all claims in 2024, but the father did not withdraw. 2024 hearing dates were adjourned based on request of the parties for various reasons. The matter was heard on May 15, 2025. Decision: 05/28/2025. Filing date and case early case history through July 2024 predates use of adjournment form. Unable to verify compliance. The excessive amount of time transpiring between filing and hearing does not comport with the intent of the IDEA. | Noncompliant      |
|   |                        | EDS 11047-23. Petition: 8/28/2023, becoming a reset case on 4/11/2024. Motion practice and adjournments based on parties' requests continued through 2023 and 2024. Decision: 5/2/2025. Filing date and case early case history through July 2024 predates use of adjournment form. Unable to verify compliance. The excessive amount of time transpiring between filing and hearing does not comport with the intent of the IDEA.   | Noncompliant      |
|   |                        | EDS 03574-24. Petition: 01/23/2024, becoming a reset case on 4/44/2024. Transmittal: 3/18/2024. Due to scheduling conflicts with the parties, hearings were conducted on September 3, 2024, October 7, 2024, and January 13, 2025. The record closed after briefing on April 3, 2025. Decision: 5/27/2025. Filing predates use of Adjournment Form. Unable to verify compliance.   | Noncompliant      |
| June 2025   | 5                      | EDS 09271-23. Petition: 7/24/2023, becoming a reset case on 4/11/2025. Transmittal: 9/18/2023. Motion practice through 2024. The hearing was conducted on September 9, 16, and 19, 2024. Decision: 6/30/2025. Filing date and case early case history through July 2024 predates use of adjournment form. Unable to verify compliance. The excessive amount of time transpiring between filing and hearing does not comport with the intent of the IDEA.   | Noncompliant      |
|   |                        | EDS 05388-22. Petition: 6/1/2022, becoming a reset case on 4/11/2025. Transmittal: 6/20/2022. Motion practice through 2023. Hearing dates: December 4, 17, and 19, 2024, January 28 and February 27, 2025. Decision: 6/23/2025. Filing date and case early case history through July 2024 predates use of adjournment form. Unable to verify compliance. The   | Noncompliant      |

|                |   |   |              |
|----------------|---|---|--------------|
|                |   | excessive amount of time transpiring between filing and hearing does not comport with the intent of the IDEA.   |              |
|                |   | EDS 15116-24. Petition: 9/18/2024. Hearings on March 24, 25, and 26, 2025. Decision: 6/9/2025. No adjournment forms on file. Unable to verify compliance.   | Noncompliant |
|                |   | EDS 15690-24. Petition: 10/30/2024, converted from a mediation request. Transmittal: 11/7/2024. Ex parte hearing on May 13, 2025 based on petitioner's nonappearance. Decision: 6/23/2025. Adjournment: 4/27/2025. Unable to verify compliance before that date.          | Noncompliant |
|                |   | EDS 03187-25. Petition: 2/11/2025. Transmittal: 3/18/2025. Hearing: 4/30/2025. Adjourned by ALJ for failure of petitioner to provide witness list. Hearing: 5/12/2025. No adjournment forms on file. Unable to verify compliance.   | Noncompliant |
| July<br>2025   | 4 | EDS 00419-25. Petition: Converted request for mediation 11/11/2024. Transmittal: 1/8/2025. Adjourned at petitioner's request. Hearing: March 11 and April 3, 2025. Decision: 7/10/2025. Properly adjourned 2/21/2025, 4/14/2025, and 5/27/2025.                           | COMPLIANT    |
|                |   | EDS 08102-25. Petition: 4/30/25. Transmittal: 5/1/2025. Hearing: 6/3/2025. Adjournment: 6/18/2025 for 21 days but scheduled out 34 days, deemed noncompliant. Decision: 7/18/2025.  | Noncompliant |
|                |   | EDS 04792-25. Petition: 9/27/2024. Transmitted: 3/12/2025. Hearing: 6/11/2024. Decision: 7/29/2025. No adjournment forms on file. Unable to verify compliance.  | Noncompliant |
|                |   | EDS 02011-25. Petition: 12/9/2024. Transmittal: 1/27/2025. Hearing: 4/10 and 15/2025 and 5/2/2025. Petitioner objected to request for extension to file summations. Appropriate adjournment until 6/25/2025. Appropriate adjournment until 9/2/2025. Decision: 7/28/2025. | COMPLIANT    |
| August<br>2025 | 1 | EDS 00385-25. Petition: 2/14/2024. Hearing: May 19 and 29, 2025. Extension on record without adjournment form. Appropriate adjournment until 6/18/2025. No other adjournment form. Decision: 8/21/2025. Unable to verify compliance.                                      | Noncompliant |

\* Use of adjournment form commenced in July, with sporadic use noted until August 2024. It is impossible to calculate timeliness prior to the use of Adjournment Forms. Compliance determinations based on data after use of the Adjournment Form commenced.

| <b>Final Decisions – No Full Hearing</b><br>(Emergent and expedited hearings excluded.) |                        |                                     |                              |
|---|------------------------|-------------------------------------|------------------------------|
| <b>Month</b>  | <b>Number of Cases</b> | <b>Number of Noncompliant Cases</b> | <b>Compliance Percentage</b> |
| May<br>2025   | 42                     | *                                   | *                            |
| June<br>2025  | 55                     | *                                   | *                            |

|   |    |   |   |
|---|----|---|---|
| July 2025   | 30 | * | * |
| August 2025   | 27 | * | * |
| <p>* Scant data exists on cases without hearing. The Compliance Monitor is unable to ascertain compliance at the case level after being unable to locate many of the records needed to demonstrate compliance or lack thereof. A subsequent data request has been made and the report will be supplemented.</p> |    |   |   |

| SPECIFIC COMPLIANCE DATA |        |   |
|--------------------------|--------|---|
| Month                    | Number | Pending Cases (Aggregate)<br>% Compliant Within<br>45 day Timeline*   |
| May 2025                 | 195    | At the current time, there is no practical way for the Compliance Monitor to track the timeliness of all pending cases. Until the database becomes available, much of this data does not exist in a mineable, extractable form. |
| June 2025                | 183    |   |
| July 2025                | 173    |   |
| August 2025              | 179    |   |

**IV. Hypothesis of Noncompliance Causes and Barriers**

Several different hypotheses and barriers are offered by the Compliance Monitor when examining the due process hearing data in New Jersey for timeliness with the 45-Day Rule.

1. No online data collection or record keeping system exists to track due process hearing requests from filing through to conclusion. This continues to be a barrier today. Collecting data manually on spreadsheets is an important component in

the current system, but it falls far short be the power within a data-based system to provide timeline alerts, verify data entries, elevate cases to an administrator when noncompliant events occur, and most importantly, extract real-time data from within the system.

2. Limited data on the outcome of mediation and settlement conferences. Increase the accuracy and detail of recording mediation and settlement outcomes to determine the effectiveness of the current model.
3. Limited trust in the ALJs conducting mediation using a mediation model as opposed to conducting mediations like settlement conferences.
4. Non-uniform use and incomplete adjournment documentation have diminished its potential value, resulting in lower compliance rates. Continued training on the mandatory use of the form is critical to improving thoroughness and accuracy. Addressing noncompliant practices is critical to systemic improvement.
5. There is a culture of distrust in the due process hearing system between ALJs and some participants. This likely stems from many sources, including years of noncompliance with the 45 day due process timelines and perceptions regarding the fairness of New Jersey's due process system, particularly with respect to unrepresented parties.

#### **V. Summary of NJDOE Actions to Address Noncompliance to Date**

NJDOE and OAL have fully implemented all Compliance Monitor recommendations to date to increase the veracity and reliability of data collection to give a true picture of timeliness of due process hearings. The following additional actions have been undertaken to improve the New Jersey due process hearing system:

1. **NJDOE and OAL weekly collaboration meetings.** Both agencies regularly participate in weekly meetings to increase communication and problem solve potential issues. The meetings have been described as "true collaboration" by NJDOE participants. The meetings are ongoing, productive, and are emblematic of true change within New Jersey's due process hearing system.

2. **Inclusion of ALJs on the NJDOE mediation roster.** In order to facilitate the use of ALJs as IDEA mediators, NJDOE has included the selected and trained ALJs on its IDEA mediation roster. NJDOE reported timeliness of scheduling, with no negative feedback from participants.
3. **NJDOE tracks and monitors the resolution period with increased accuracy.** NJDOE added data fields to its regular data collection to provide insight on transmittals at the conclusion of the resolution period.
4. **Modification of forms.** NJDOE refined its forms used to provide notice to OAL of all cases at the time of filing and distinguish that process from actual transmittal.
5. **Dedication of staff and resources.** NJDOE dedicates staff and resources within its own office and within OAL to address the necessary improvements.

#### **VI. Summary of NJDOE Future Actions to Rectify Noncompliance**

NJDOE continues to take the initiative to improve its due process hearing system. NJDOE has committed to dedicating time, collaborative efforts, resources, and staff to making the necessary changes to bring the due process hearing system into compliance with the 45-Day Rule.

#### **VII. Recommendations for Improvement/Compliance**

The Compliance Monitor recommends the following actions for NJDOE and OAL:

- Reinforce the necessity of ALJs consistently and thoroughly completing an adjournment form with each extension of the 45 day timeline. Specifically address ALJs who are unable/unwilling to comply with the use of the adjournment form.
- In order to improve transparency and trust in the due process system, it is recommended that NJDOE/OAL use audio recording to create a verbatim record of all prehearing and status conferences, excluding any type of settlement conference. The audio recording should be saved in the record and made available to parties on request.

UPDATE: NJDOE and OAL have committed to implementing this recommendation consistent with the following: Audio recording of prehearing

conferences (excluding any type of settlement conference) shall be automatic for pro per parties. When parties are represented, OAL will create an audio recording of prehearing conferences upon request of counsel. A copy of the recording shall be available to the parties upon request.

- In order to improve trust in the mediation system, supplement the training of ALJs with specific mediation training, and ideally special education mediation training. Although the 40 hour training requirement from an approved course exists for court annexed mediators and is not required by the IDEA, additional targeted training specific to mediation would be a helpful compliment to the training already taking place.

UPDATE: NJDOE and OAL agreed to implement this recommendation.

- Collect detailed data on the success of mediation conducted by ALJs.

UPDATE:

- Once PEGA is live and operational, it is recommended that NJDOE and OAL host a demonstration for practitioners in special education in coordination with the appropriate section of the bar association. Post demonstration, OAL should receive and consider the written feedback of the participants.

UPDATE: NJDOE and OAL agreed to implement this recommendation.

- It is recommended that NJDOE and OAL develop specific instructions on the use of PEGA for anyone who may need assistance accessing the system, including unrepresented parties.

UPDATE: NJDOE and OAL agreed to implement this recommendation.

- Based on the late implementation of PEGA and the inaccuracy associated with hand calculation of data across multiple sources with no reporting capabilities, it is recommended that the Compliance Monitor continue to report on the same cycle using the same metrics for two more reporting periods. This will give the parties, especially class counsel, the best opportunity to review comprehensive data during the life of this case.

UPDATE: NJDOE and OAL concur with this recommendation.

### **VIII. Class Counsel Concerns**

Although Class Counsel expressed concurrence with many of the Court Monitor's recommendations in this draft Compliance Report #4, Class Counsel expressed ongoing concerns in several areas. Keeping in mind that paragraph 19, section VII of the Consent Decree states that the Monitor shall operate independently of the parties, the concerns will be addressed below to the extent appropriate.

1. Insufficient number of ALJs. In meetings with the Compliance Monitor, the OAL Chief Judge concurs that more ALJs would benefit the special education due process hearing system. In New Jersey an ALJ is appointed by the Governor and confirmed by the New Jersey Senate, initially for a one-year term. After the one-year term, the Governor may reappoint the individual to a four-year term. Subsequently, reappointment is to terms of five-years and requires both the Governor's nomination and Senate confirmation. The hiring and retention process is beyond the immediate control of NJDOE or the Chief Judge. The Compliance Monitor fully endorses and encourages all efforts to hire, retain, and train more ALJs.
2. Feedback received through the monitor email address. Paragraph 18 of the consent decree confirms that the Monitor may conduct individual, confidential interviews in her role as Compliance Monitor. Therefore, the Monitor does not report out on conversations with concerned individuals. To the extent that concerns have been expressed, those concerns served as the impetus in identifying barriers in paragraph 5 in the Hypothesis to Noncompliance Causes and Barriers section of the draft Report. Specifically, paragraph 5 states that there is a culture of distrust in the due process hearing system between ALJs and some participants. This likely stems from many sources, including years of noncompliance with the 45 day due process timelines and perceptions regarding the fairness of New Jersey's due process system, particularly with respect to unrepresented parties. As a result of this identified barrier, the Court Monitor recommended audio recording of prehearing conferences as address in the Recommendation section of the report.

3. Future adjournments requests through the case management system. The Compliance Monitor confirms her understanding that litigants shall have the capacity to make adjournment requests through the case management system.
4. NJDOE's actions. NJDOE has cooperated with each recommendation of the Compliance Monitor. Consistent with paragraph 32(f) in section IX, NJDOE is trending toward achieving 95% compliance by meeting with and accepting the recommendations of the Compliance Monitor.
5. Random transmittal delays. Please see the update on page 5.
6. Reset cases. All resent cases are deemed noncompliant with the 45 day timeline.
7. Column heading. The column title has been changed to: Percentage of Forms Documenting Compliant Adjournments.
8. Adjournments at the request of a party. The Compliance Monitor reviews each adjournment form, confirming whether the form indicates it has been requested by a party, the name of the party, and in most cases, the electronic signature of the party.
9. Mediator training. The Compliance Monitor addressed recommendations for additional mediator training in the Recommendations section of this report.

Respectfully submitted this 9<sup>th</sup> day of November 2025.



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Lenore Knudtson  
Compliance Monitor

## EXHIBIT 2 to Declaration



Catherine Merino Reisman\*\*  
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October 20, 2025

**Via Email (matthew.lynch@law.njoag.gov)**

Matthew Lynch, DAG  
Office of the Attorney General  
25 Market Street PO Box 0112  
Trenton, New Jersey 08625

**RE: C.P., et al. v. N.J. Dep't of Educ., et al.  
Case No. 1:19-cv-12807-ESK-MJS**

Dear DAG Lynch:

As you know, the Consent Order in this matter, entered on April 11, 2024, provides that the Class may seek appropriate relief, including an order of contempt, if the New Jersey Department of Education (NJDOE) has not complied with the Consent Order. Although the monitoring report for the fourth monitoring period is not yet final, it is clear that NJDOE has not complied with the Consent Order.

Accordingly, pursuant to paragraph 35 of the Consent Order, we write (i) to document NJDOE's non-compliance, with a reference to the specific provision(s) of the Consent Order that NJDOE has violated, and (ii) to provide a statement of the remedial action the Class seeks.

The most recent report establishes that NJDOE has not achieved a sustained compliance rate of 95%, as defined in paragraph 7 of the Consent Order, for the "Final Decision – Post Full Hearing" group of cases. Indeed, during the last monitoring period, only two out of thirteen such cases were compliant, resulting in a meager 15% compliance rate. And, the data on the thirteen non-compliant cases shows that NJDOE has made virtually no progress whatsoever during the eighteen months since entry of the Consent Order:

| Case Number  | Date of Transmittal <sup>1</sup>           | Date of Decision | Number of Days |
|--------------|--|------------------|----------------|
| EDS 13866-19 | August 30, 2019<br>Reset to April 12, 2024 | May 28, 2025     | 412            |
| EDS 11047-23 | August 28, 2023<br>Reset to April 12, 2024 | May 2, 2025      | 386            |

<sup>1</sup> For cases reset to April 12, 2024 as provided in the Consent Order, number of days is calculated from the reset date. For cases marked with an \*, date of transmittal is not indicated, so the initial date is the day the petition was filed.



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| Case Number  | Date of Transmittal <sup>1</sup>            | Date of Decision | Number of Days |
|--------------|---|------------------|----------------|
| EDS 03574-24 | January 23, 2024<br>Reset to April 12, 2024 | May 27, 2025     | 517            |
| EDS 09271-23 | July 24, 2023<br>Reset to April 12, 2024    | June 30, 2025    | 445            |
| EDS 05388-22 | June 1, 2022<br>Reset to April 12, 2024     | June 23, 2025    | 438            |
| EDS 15116-24 | September 18, 2024*                         | June 9, 2025     | 265            |
| EDS 15690-24 | November 7, 2024                            | June 23, 2025    | 215            |
| EDS 03187-25 | March 18, 2025                              | May 12, 2025     | 56             |
| EDS 08102-25 | May 1, 2025                                 | July 18, 2025    | 79             |
| EDS 04792-25 | March 12, 2025                              | July 29, 2025    | 140            |
| EDS 00385-25 | February 14, 2024*                          | August 21, 2025  | 555            |

Compliance Report #4 (October 10, 2024) at 13-14. Only one of those cases, EDS 03187-25, was even close to meeting the 45-Day deadline.

Paragraph 7 of the Consent Order also requires NJDOE to attain 95% Compliance for “Pending Cases” and for cases denoted “Final Decision – No Full Hearing.” But NJDOE somehow still cannot even measure compliance rates for the “Pending Cases” and the “Final Decision - No Full Hearing” category of cases. As the Compliance Monitor states with respect to Pending Cases, “at the current time, there is no practical way for the Compliance Monitor to track the timeliness of all pending cases.” Compliance Report #3 (July 1, 2025) at 14 and Compliance Report #4 (October 10, 2025) at 15. With respect to “Final Decision – No Full Hearing” cases, the Compliance Monitor similarly states, “scant data exists on cases without hearing. The Compliance Monitor is unable to ascertain compliance at the case level after being unable to locate may [sic] of the records needed to demonstrate compliance or lack thereof.” Compliance Report #4 at 14. So, for those two categories of cases, NJDOE’s compliance rate is 0%.

NJDOE also has failed to comply with paragraphs 20 and 22 of the Consent Order. Paragraph 20 requires that “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 case management system.” Paragraph 22 requires the use of the Adjournment Form “to track specific extensions of time” and mandates that “each Adjournment Form will be maintained in the electronic case file for each matter.” Yet, NJOAL did not implement the adjournment form until after July 1, 2024 (Compliance Plan (August 11, 2024) at 5), and the use



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of the Adjournment Form has remained “non-uniform” and “incomplete” throughout the remainder of the 18-month period. *See* Compliance Report #2 at 10, #3 at 15, #4 at 16.

The Compliance Monitor specifically recognized that “considerable variability exists in how ALJs complete the form, representing a knowledge gap among the various ALJs.” Compliance Report #3 at 15. And notably, and without explanation, NJDOE ignored and never disseminated the input provided by Class Counsel on December 9, 2024, regarding the content of a broadcast memo that would have provided instructions to users for the proper completion of the Adjournment Form. Astoundingly, the most recent draft Compliance Report indicates that NJOAL did not even begin training the ALJs on the Adjournment Form until April 4, 2025 (Compliance Report #4 (October 10, 2025) at 2), almost an entire year after the Court entered the Consent Order.

Further, NJOAL’s failure to launch its electronic case file system exacerbates the data-collection failures caused by NJOAL’s improper use of the Adjournment Form. Despite a target launch date of mid-November 2024 (Compliance Report #1.2 (October 21, 2024) at 9), as of the present date “no online data collection or record keeping system exists to track due process hearing requests from filing through to conclusion.” Compliance Report #4 at 15. This failure is inexplicable, especially given that NJDOE has entered Memoranda of Understanding with NJOAL since at least 2021 dedicating increasing amounts of money “to maintain and operate software to centralize the scheduling of cases in order to track the progress of special education due process hearings and to ensure compliance with the timelines set forth in the IDEA, federal, and state regulations.” As such, NJOAL’s continued failure to implement such a software system is particularly inexcusable, and raises questions about where that money was spent instead.

NJDOE also has violated paragraph 30 of the Consent Order. Despite the requirement of paragraph 30 of the Consent Order, there is no “summary of the actions NJDOE will take in the next monitoring period to rectify noncompliance; and how said actions will be measured and assessed.” In fact, none of the monitoring reports contained specific action plans for the next monitoring period. While the failure to so disclose might be partially attributable to the Compliance Monitor’s lack of insistence, it ultimately was NJDOE’s responsibility to set out the actions it plans to take to rectify noncompliance in each prior monitoring period, and to propose how such action plans would be measured and assessed. NJDOE did not do so.

Finally, NJDOE’s noncompliance necessarily means that NJDOE has not complied with paragraph 10 of the Consent Order, which requires NJDOE to “ensure” that parties receive final decisions in accordance with the 45-day time limit established by 34 C.F.R. § 300.515.

NJDOE’s failures to comply with the Consent Order are beyond reasonable dispute. The only germane questions, therefore, concern what comes next, and how best can the Court get NJDOE to take its obligations seriously, with a time-is-of-the-essence mentality, such that NJDOE will comply with the law.

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In *Duane B. v. Chester-Upland Sch. Dist.*, 1994 U.S. Dist. LEXIS 18755 (E.D. Pa. Dec. 19, 1994), faced with a similar situation, the district court appointed a Special Master in an IDEA case because the defendants—the Pennsylvania Department of Education (PDE) and a Pennsylvania school district—had “moved with the pace of a snail in implementing the stipulated court orders in this case so as to require their being held in civil contempt in order to goad them into getting done the significant tasks that they yet left undone.” *Id.* at \*2. The same easily can be said of NJDOE here.

*Duane B.* explained:

Consent decrees, although negotiated by the parties, are judicial acts, and a party who violates consent decrees is subject to powers by which the court protects its judgments, including, most notably, the power of contempt. Liability for contempt accrues when a defendant disobeys a valid court order, knowing it to have been issued. [citation omitted]. The purpose of a civil contempt remedy is to coerce compliance with the court order and to compensate the complainant for failure to comply. The relevant inquiry is whether the defendants took all the reasonable steps within their power to insure compliance. To find them in contempt, it is not necessary to establish that the defendants willfully disobeyed the court ordered stipulations. The test is objective, rather than subjective.

*Id.* at \*9-10. Here, NJDOE *objectively* is in contempt of the April 2024 Consent Order because the compliance question is data driven and determined by simple mathematics. And the math demonstrates non-compliance, and thus contempt.

After eighteen months working with the Compliance Monitor, it is clear from the data—and NJDOE’s lack of material progress—that a Compliance Monitor with limited power is not sufficient to guide the NJDOE to compliance. Accordingly, pursuant to paragraph 35 of the Consent Order, we will seek remedial action requesting the appointment of a Special Master who will have greater authority, who will report regularly to the Court, and who will have the authority to recommend that the Court enter further remedial orders.

Pursuant to Rule 53 of the Federal Rules of Civil Procedure, the Court may appoint a Special Master to “hold trial proceedings and make or recommend findings of fact on issues to be decided without a jury if appointment is warranted by [] some exceptional condition.” Fed. R. Civ. P. 53(a)(1)(B)(i). Evidence of noncompliance with an injunction that first issued over a year earlier portends continuing violations, constituting just such an exceptional condition. *Nat’l Org. for Reform of Marijuana Laws v. Mullen*, 828 F.3d 536,539 (9th Cir. 1987). This is especially true when necessary to supervise implementation of a remedial order requiring major structural reform of a state institution. *See, e.g., Halderman v. Pennhurst State Sch. and Hosp.*, 612 F.3d 84, 111 (3d Cir. 1979) (en banc), *rev’d on other grounds*, 451 U.S. 1 (1981)



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The persistent and systemic noncompliance documented in this case warrants immediate judicial intervention. This litigation falls squarely within the category of institutional reform matters, like the cases cited above, in which entrenched failures—and failures to remedy—demand the appointment of a Special Master. Given the complexity and gravity of the issues, and NJDOE’s continued failure and refusal to take material steps toward remedying the problems, we will propose the appointment of a Special Master who is a retired United States District Judge or Magistrate Judge. If the parties are unable to agree on a qualified and willing candidate, we will propose that each side submit recommendations to the Court for its consideration and appointment.

Accordingly, before moving for contempt, we request that NJDOE consent to entry of the relief set forth in the proposed Supplemental Consent Order included with this letter. Frankly, given NJDOE’s abysmal performance during this 18-month-plus period, we assume NJDOE would prefer to negotiate a resolution rather than litigate its indisputable contempt of the Consent Order, which will require the expenditure of time and legal fees (ultimately to be paid by NJDOE) all in the name of delay, with the attendant, continued denial of legal rights to special education students in New Jersey.

We believe the Supplemental Consent Order provides the structure for expeditiously bringing New Jersey’s dispute resolution process into compliance. As required by ¶ 35 of the Consent Order, we look forward to NJDOE’s response within thirty days. That said, we welcome prompt discussions with NJDOE about the terms of the Supplemental Consent Order, and will negotiate with NJDOE in good faith. But, to be very clear, we will not chase after NJDOE for such discussions, and we will not delay filing our contempt motion if NJDOE shows up at the last minute with time-consuming deal points. The time to remedy this situation is now.

Very truly yours,

*/s/ Catherine Merino Reisman*

Catherine Merino Reisman  
On Behalf of Class Counsel

cc: Class Counsel (by email) (w/enc.)

## EXHIBIT 3 to Declaration



## **Hon. Jaynee LaVecchia**

Hon. Jaynee LaVecchia was appointed an Associate Justice of the New Jersey Supreme Court on February 1, 2000, and served for more than twenty-one years until December 31, 2021. As the longest serving woman on New Jersey's court of last resort, she brings broad experience and knowledge of civil and criminal law. Her judicial experience capped two prior decades as a public and private litigator and high-level State government attorney/administrator. Justice LaVecchia's judicial, regulatory, and governmental experience allows her to assist parties and their counsel in resolving disputes efficiently using alternative dispute resolution methods, provide preparatory assistance such as conducting mock trials and appellate arguments, and serve as a special master or as an expert witness.

Participating in thousands of appellate matters while on the New Jersey Supreme Court, she authored significant decisions in the areas of complex commercial and regulatory litigation, environmental law, civil rights, and workplace harassment, among others. In her prior roles as the Commissioner of Banking and Insurance and as the Director of the State Attorney General's civil division, Justice LaVecchia was responsible for legal work in many complex regulatory areas. Moreover, in the Attorney General's Office, she and her Division of more than 450 lawyers handled counselling, defense, and prosecutions for the agencies of the Executive Branch, which included the wide ranging regulatory settings of financial and healthcare regulation, employment law, public utility and environmental issues, and professional licensing in its many varied settings. She also served for approximately six years as the state's Chief Administrative Law Judge and Director of the state's Office of Administrative Law, where she conducted contested case proceedings and utilized alternative dispute resolution mechanisms to resolve disputes between governmental agencies and individuals or regulated entities.

Justice LaVecchia has received numerous honors and awards from law schools and bar associations and chaired or served on numerous special committees for the Supreme Court and a federal court advisory panel. She is a Fellow of the American Bar Association and a member of the American Law Institute.

Since joining the law firm of McCarter & English, LLP in February, 2022, Justice LaVecchia has provided mediation and arbitration services, appellate and litigation representation and/or assistance, and counseling. She has worked on appeals in federal trial courts, several Circuit Courts of Appeal, the Supreme Court of the United States, and in the supreme courts of several states outside of New Jersey. In New Jersey state court matters, she has assisted attorneys in her firm, and other firms, in strategy and the briefing and preparation of dispositive motion practice and appeals. Her mediated matters have involved, for example, the areas of school law, discrimination matters, business disputes, products liability and medical malpractice, and insurance coverage. She has served as the neutral chair in large insurance coverage disputes as well as the court-appointed special discovery master in a New Jersey civil RICO action. She was appointed the special master, and later monitor, in the matter of *A.A. v. Callahan*, which involved the N.J. State Police's timely processing of expungement orders.



**Former Positions**

Associate Justice, Supreme Court of New Jersey, 2000-2021  
New Jersey Commissioner of Banking and Insurance, 1998-2000  
Director, Division of Law, New Jersey Department of Law & Public Safety, 1994-1998  
Director & Chief Administrative Law Judge for New Jersey, 1989-1994  
Office of Counsel to Governor Thomas H. Kean, Assistant, then Deputy Chief Counsel to Governor, 1986-1989  
Private Practice, Brach Eichler, Roseland, NJ (healthcare practice (regulatory and corporate focus) and general commercial litigation) 1984-86  
New Jersey Division of Law 1979-1984

**Education**

Rutgers-Newark School of Law, JD, 1979  
Douglass College, Rutgers University, 1976, B.A.

**Bar Admissions**

State of New Jersey  
U.S. Court of Appeals, Third Circuit  
U.S. Court of Appeals, Fourth Circuit  
U.S. District Court, District of New Jersey  
U.S. Supreme Court

## EXHIBIT 4 to Declaration

***C.P., et al. v. New Jersey Department of Education, et al.***

Case No. 1:19-cv-12807-ESK-MJS

United States District Court for the District of New Jersey

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**NOTICE OF PROPOSED AMENDMENT TO CONSENT ORDER**

**Important Information for Members of the Rule 23(b)(2) Class**

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**IMPORTANT DATE: Responses to Motion to Amend must be filed by [DATE]**

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**What Is This Notice About?**

On April 11, 2024, in *C.P., et al. v. New Jersey Department of Education*, the Court approved a Consent Order affecting the rights of the Rule 23(b)(2) Class – people who have filed, or will file, a special education due process petition with the New Jersey Department of Education (NJDOE) and whose petition is pending within the New Jersey Office of Administrative Law (NJOAL) while the Court's oversight of this case is ongoing.

Class Counsel and NJDOE have agreed to a proposed Amended Consent Order in *C.P. et al. v. NJDOE*. The Court has not yet approved the amendment. This notice explains what the proposed amendment would change and how you can respond if you choose to.

The rights of the Rule 23(b)(3) Issues Class are not affected by this amendment.

You may review the proposed Amended Consent Order and Motion to Amend and supporting documents here [link to motion and supporting papers] or through the Court's docket.

**Why Was the Original Consent Order Entered?**

In April 2024, the Court approved a Consent Order and Settlement Agreement requiring NJDOE to ensure that special education due process petitions are decided within 45 calendar days (excluding party-requested extensions approved by an Administrative Law Judge). The Court also appointed a Compliance Monitor to track NJDOE's progress and issue public reports every four months.

The original Consent Order required NJDOE to achieve a 95% compliance rate within 18 months. If that rate was not achieved, Class Counsel could seek additional relief from the Court — including appointment of a Special Master.

**What Does the Proposed Amendment Change?**

The Compliance Monitor's Fourth Report, issued in November 2025, found that NJDOE has not achieved the required 95% compliance rate. Rather than pursue contempt proceedings, Class Counsel and NJDOE have agreed to the following changes:

## Appointment of a Special Master

The most significant change is the appointment of a Special Master — a neutral, independent Court-appointed official with the power to seek Orders from the Court — to oversee NJDOE's compliance going forward. The Parties have agreed to request that the Court appoint the Honorable Jaynee LaVecchia (Ret.), a former Justice of the New Jersey Supreme Court, as Special Master.

The Special Master's role will include:

- Working with the Parties to develop a Compliance Plan designed to achieve 95% compliance with the 45-day hearing timeline;
- Submitting that Compliance Plan to the Court for adoption as an enforceable Order of the Court;
- Reporting to the Court at least every four months on NJDOE's progress;
- Recommending additional remedial, and if necessary, coercive orders if NJDOE is not making required progress; and
- Responding to inquiries from Rule 23(b)(2) Class members about timeline compliance through a dedicated email address: 45days@doe.nj.gov.

## Other Changes

The proposed amendment also includes the following additional protections for Class members:

- *Pro se* (unrepresented) parents and guardians will receive a new litigation guide to help them navigate the due process system. The guide will be provided at the time of filing and posted on NJDOE's website.
- Prehearing conferences will be automatically audio-recorded in cases where parents are unrepresented. Recordings will be available at no cost upon request. This is currently in place as a policy, but inclusion in the Amended Consent Order makes the policy enforceable.
- NJDOE will fund a full-time NJOAL employee to maintain and report data on pending cases to NJDOE, Class Counsel, and the Special Master.
- The Special Master will conduct random reviews of cases — particularly those involving unrepresented parents — that have not been scheduled for a hearing within 45 days.
- The Special Master will respond to inquiries from Rule 23(b)(2) Class members when contacted regarding violations of the 45-day timeline.

## What Is NOT Changing?

The core obligation from the original Consent Order remains the same: NJDOE must ensure that due process petitions are decided within 45 calendar days (excluding party-requested and ALJ-approved extensions). The 95% compliance standard is preserved.

The rights of the Rule 23(b)(3) Issues Class — which allows past claimants to file individual claims through April 11, 2026 — are fully preserved and unchanged.

## How Does This Affect You?

Members of the Rule 23(b)(2) Class will benefit from strengthened oversight of NJDOE's compliance. The Compliance Monitor had an advisory role. The Special Master will have authority to gather data, investigate noncompliance, and seek court orders if NJDOE is not meeting its obligations.

Your right to file individual claims — separate from this class action — is not released or affected by the amendment.

## How Can You Respond?

Any member of the Rule 23(b)(2) Class may file a response objecting to or in support of the Motion to Amend with the Court by email to **info@NJ45DayClassAction.com**. Responses must be received by **[date]**.

## Who Are Class Counsel?

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

- Reisman Gran Zuba LLP
- Law Office of David Giles
- Education Law Center
- Law Office of Denise Lanchantin Dwyer LLC
- Wasserman Little LLC

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For more information, contact Class Counsel at [info@NJ45DayClassAction.com](mailto:info@NJ45DayClassAction.com) or  
visit [www.NJ45DayClassAction.com](http://www.NJ45DayClassAction.com)

**PLEASE DO NOT CONTACT THE COURT WITH QUESTIONS**