

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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J.S.M., et al.,

Plaintiffs,

ORDER
20-CV-705 (EK) (SJB)

-against-

NEW YORK CITY DEPARTMENT OF
EDUCATION, et al.,

Defendants.

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ERIC KOMITEE, United States District Judge:

This matter comes before the Court on the unopposed motion of Plaintiffs,¹ on behalf of themselves and Class Members (as defined in the Stipulation of Settlement and Order for Class Certification, ECF No. 33), for preliminary approval of the Stipulation of Settlement (“the Settlement Agreement”), dated October 25, 2024 (the “Execution Date”), and related relief.² All defendants consent to the preliminary approval of the

¹ J.S.M., by her parent, E.M.; E.M., individually and on behalf of J.S.M.; B.M., by his parents, M.C. and L.M.; M.C. and L.M., individually and on behalf of B.M.; C.G., by his parent, L.G.; L.G., individually and on behalf of C.G.; P.W., by his parents, T.F. and P.R.W.; T.F. and P.R.W., individually and on behalf of P.W.; Q.T., by his parents, W.J.T. and W.H.T.; W.J.T. and W.H.T., individually and on behalf of Q.T.; A.N., by her parent, T.N.; T.N., individually and on behalf of A.N.; A.S., by his parent, T.T.; T.T., individually and on behalf of A.S.; K.M.E., by her parent, E.N.; E.N., individually and on behalf of K.M.E.; S.F., by her parent, A.F.; A.F., individually and on behalf of S.F.; S.S., by her parent, D.C.; D.C., individually and on behalf of S.S.; and W.W., by her parent, S.J.; S.J., individually and on behalf of W.W.

² The defendants are the New York City Department of Education (“NYCDOE”), the Chancellor of the NYCDOE (together with NYCDOE, “City Defendants”), the New York State Education Department (“NYSED”), and the Commissioner of NYSED (together with NYSED, “State Defendants”).

Settlement Agreement. The Court has reviewed the Settlement Agreement and the documents submitted in support of the motion, and good cause appearing,

NOW IT IS HEREBY ORDERED AS FOLLOWS:

1. Definitions. For the purposes of this Order, the Court adopts by reference the definitions set forth in Section II ("DEFINITIONS") of the Settlement Agreement.

2. Settlement Approval. The Court preliminarily approves the proposed Settlement as set forth in the Settlement Agreement as being sufficiently fair, reasonable, and adequate to the Class, and finds that it is the result of arm's-length negotiations between experienced attorneys familiar with the legal and factual issues of this case. Specifically, the Court provisionally finds that the relief provided for in the Settlement Agreement is fair, reasonable, and adequate.

3. Notice to Class Members. The Court approves the form and content of the Class Settlement Notice as follows:

- a. The Court finds that the proposed Class Settlement Notice, attached as Exhibit 2 to the Declaration of Danielle Tarantolo, will fairly and accurately inform potential Class Members of all material elements of the Settlement Agreement and the right to object to the Settlement.

- b. The Court finds that the plan described below to distribute the Class Settlement Notice provides appropriate notice to the Class and complies with the requirements set forth under Federal Rule of Civil Procedure 23 and any other applicable law.
- c. The Court expressly authorizes the following methods of notice: (1) Defendant NYCDOE will send the proposed Class Settlement Notice to Class Members who have pending Due Process Complaints, or if they have counsel, their counsel, using the email addresses that Defendant NYCDOE has on file in connection with the Class Members' due process complaints; (2) Defendant NYCDOE will post the Class Settlement Notice on its website in the section concerning impartial hearings; and (3) Plaintiffs will post the Class Settlement Notice on NYLAG's website.

4. Fairness Hearing. A Final Approval and Fairness Hearing will be held on April 11, 2025 at 10:00 a.m. Any Class Member shall have the right to present objections to the Settlement in advance of the Fairness Hearing. Class Members may present their objections via phone call to Class Counsel at 212-946-0352, or via email to Class Counsel at JSM@nylag.org, and notify Class Counsel if they also wish to speak at the

Fairness Hearing, on or before March 3, 2025. Class Counsel will provide Defendants' counsel with copies of any objections they receive within three business days of receipt, including transcripts of any telephonic objections, and will file any objections they receive with the Court by March 14, 2025. The Fairness Hearing will be held at the United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York, Courtroom 6GN.

5. Final Approval. Papers in support of a motion for entry of a Final Approval Order shall be filed with the Court on or before March 14, 2025. Any responses to objections to the proposed Settlement Agreement, and any further papers in support of the motion for entry of the Final Approval Order, shall be filed with the Court on or before April 4, 2025.

6. Termination. This Order shall terminate if the Court denies the motion to enter the Final Approval Order following the Fairness Hearing, or the Settlement Agreement is rejected by the mandate of an appellate court. In such event, the Settlement Agreement shall be null and void and shall have no force or effect, no party shall be bound by any of its terms, all parties and Class Members shall be restored to their respective positions existing immediately before the Execution Date, and any order entered by the Court in accordance with the Settlement Agreement shall be treated as vacated.

SO ORDERED.

 /s/ Eric Komitee
ERIC KOMITEE
United States District Judge

Dated: December 3, 2024
Brooklyn, New York