

IMPORTANT COURT-ORDERED NOTICE

Settlement of Class Action Lawsuit on Behalf of New York City Families Experiencing Delays in Getting Decisions on Special Education Due Process Complaints

You are receiving this Notice because you filed a due process complaint against the New York City Department of Education to challenge the adequacy or appropriateness of your child's special education services.

You can find a copy of the Settlement Agreement at www.nylag.org/JSM

You are not being sued. You are a member of the Plaintiff Class. This Notice is about a settlement that may impact your rights as a Class Member. Please read it carefully.

This Settlement does not limit *in any way* your rights under your own individual due process complaint.

If you are satisfied with the terms of the Settlement described below, you do not need to take any action. If you wish to object to this Settlement, please review the instructions below.

PURPOSE OF THIS NOTICE

This Notice is to inform you of the proposed settlement in a class action lawsuit called *JSM v. New York City Department of Education*, No. 20-cv-705 (E.D.N.Y.) (the "Settlement"). Several New York City families awaiting due process hearing decisions filed a lawsuit in federal court against the New York City Department of Education and the New York State Education Department (the "Defendants"), on behalf of themselves and similar New York City families. The law requires that hearings and final decisions happen on due process complaints within a set period of time—usually 75 days, excluding extensions granted by the hearing officer based on applicable regulations. A federal court in New York City is now considering approving the Settlement and has already approved this Notice. This Notice describes the case and what the New York City Department of Education and the New York State Education Department have agreed to do. More details are below but you can find a copy of the entire Settlement Agreement at www.nylag.org/JSM.

QUESTIONS OR MORE INFORMATION

If you have questions after reading this Notice, or you would like a copy of the Settlement agreement, you may visit the website www.nylag.org/JSM, or call or email the lawyers who represent the families in this lawsuit: the New York Legal Assistance Group and Sullivan & Cromwell LLP, at 212-946-0352 or JSM@nylag.org. The lawyers representing the families will NOT charge any money for answering your questions about the Settlement or giving you advice.

Brief Description of the Lawsuit

The lawsuit, which is called *JSM v. New York City Department of Education*, No. 20-cv-705 (E.D.N.Y.), alleges that the Defendants allowed delays to occur in resolving due process complaints filed by New York City families, in violation of federal and state law. The Defendants have denied these allegations. The lawsuit asks the Court to require the Defendants to provide hearing decisions on time. The lawsuit does not seek money damages for children and their families. The Court has not decided if the Defendants violated the law.

The Court-Certified Class Is Defined As:

Individuals who file or have filed due process complaints, and the children on whose behalf due process complaints are filed, when due process complaints are unresolved and the decisions of such complaints have not been timely provided under applicable federal and New York state law.

Students with disabilities and their parents/guardians are Class Members if they filed a due process complaint against the New York City Department of Education and that complaint is pending for more than 45 days after the “resolution period” has ended, excluding certain extensions. In most cases, a student with disabilities and their parents/guardians whose due process complaint has not been settled, withdrawn, or decided within 75 days of it being filed, is part of the Class (unless an Impartial Hearing Officer has granted an extension of time based on applicable regulations).

The Court also appointed lawyers to represent you and other families **free of charge** in the Class action. These lawyers are the New York Legal Assistance Group (“NYLAG”) and Sullivan & Cromwell LLP.

The Proposed Settlement

Plaintiffs (representing themselves and all other Class Members), the Department of Education of the City of New York (“NYCDOE”), and the New York State Education Department (“NYSED”) have agreed to a Settlement that they believe is fair to all Class Members. In settling the lawsuit, the NYCDOE and NYSED do not admit to any wrongdoing, and this Settlement should not be viewed as confirming the truth of any claims made in the lawsuit.

The proposed Settlement must be approved by the Court before it can be final. So far, the Court has only approved this Notice to provide this information to the Plaintiff Class. If the Court grants final approval to the proposed Settlement, all of the terms of the Settlement will be binding on NYCDOE and NYSED, and will apply to everyone in the Plaintiff Class. This proposed Settlement was negotiated in many sessions, between the families’ lawyers (NYLAG and Sullivan & Cromwell LLP), the NYCDOE’s lawyers (the New York City Law Department) and NYSED’s lawyers (Office of the New York State Attorney General).

Summary of the Proposed Settlement

If approved by the Court, the Settlement's provisions will be enforceable in Court, if necessary, for four years from the date the Court approves the Settlement.

Under the Settlement, the parties have agreed that the following steps will be taken:

- Make sure that within one year, 50% of due process complaints are decided on time; within two years, 75% of due process complaints are decided on time; and within three years, 95% of all due process complaints are decided on time;
- There will be a special process to review due process complaints that have already been filed and are either overdue or were filed more than 2 ½ years ago, to decide if the cases should be settled or sent for a quick hearing;
- Technological upgrades will be made to the systems for filing due process complaints and information will be tracked about the settlement and resolution of due process complaints, so that those systems can result in quicker hearing decisions;
- More information about the due process complaint system will be made available to families, and there will be effective ways for families to complain about problems or delays with their due process complaints;
- There will be other changes to the way NYCDOE handles the resolution and settlement of due process complaints;
- There will be special protections for students whose hearing decisions are overdue, such as voluntarily providing an evaluation to families that are seeking one through a due process complaint before a hearing decision is issued;
- More training and oversight will be provided for hearing officers to make sure they are not contributing to delays and are properly giving extensions;
- Data related to the hearing system and the settlement of due process complaints will be provided to Class Counsel over the course of four years so that they can ensure that the Settlement deadlines are being met; and
- Attorneys' fees for work on the *JSM* case will be paid to Class Counsel, as provided by federal special education law.

While the Settlement is in effect, Class Members and their representatives will not be able to bring new class-wide claims for systemwide court orders against the City or State that raise systemwide claims similar to those in Plaintiffs' Complaint. However, individual families can litigate on their own behalf regarding their own individual, case-specific claims for special education services. **The Settlement does not limit any claims that parents may make or any actions they may seek in their individual due process complaints or litigation related to those complaints.**

This is just a summary of the Settlement. You can find a more detailed summary of the Settlement and a full copy of the Settlement Agreement [HERE](#).

How to Object to the Settlement

The Settlement is not final yet. It will only become final if the Court approves it after holding a Fairness Hearing. The Fairness Hearing is a public hearing at which the Judge will hear testimony about whether the proposed Settlement is fair, reasonable and adequate and listen to any objections by Class Members.

The Court will hold this hearing to consider the proposed Settlement on April 11, 2025, at 10:00 am, in Courtroom 6GN at the United States Courthouse at 225 Cadman Plaza E., Brooklyn, NY 11201.

Before the Fairness Hearing, Class Members can let the Court know whether they agree or disagree with the proposed Settlement. You can do this yourself or, if you have a legal representative, you can have your legal representative do it for you. Class Members cannot ask the Court to change the terms of the Settlement; the Court can only approve or deny the Settlement.

If the Court approves the Settlement, you and all other Class Members will be entitled to the benefits of the Settlement, but you also will be prohibited from bringing similar systemic claims against New York City and New York State, as described above. **If you agree with the proposed Settlement, you do not need to take any action.** If you would like to object to the proposed Settlement, you may do so in the following ways:

- Call the lawyers for the Class Members at 212-946-0352, provide your name and address, and explain the basis of your objection; or
- Write to lawyers for the Class Members at JSM@nylag.org. If you write, you must include your name and address and explain the basis of your objection.

You must let Class Counsel know about your objection by March 3, 2025. When you let them know, please also tell them if you are interested in speaking at the Fairness Hearing on April 11, 2025, at 10:00 am at 225 Cadman Plaza E., Brooklyn, NY 11201.

If you are an attorney representing a Class Member, you can submit an objection on your client's behalf. Please submit your objection in writing to JSM@nylag.org and provide the name and address of the Class Member. Please indicate in your correspondence whether you would also like to speak at the Fairness Hearing. The deadline to submit any objection is March 3, 2025. **Class Counsel will file any objection it receives with the Court before the Fairness Hearing.**

If you have questions after reading this Notice, or you would like a copy of the Settlement Agreement, you may call the lawyers who represent the Class at 212-946-0352 or email them at JSM@nylag.org. You can also find a copy of the Settlement Agreement at www.nylag.org/JSM.