

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

P.B., by and through his next friend,
Cassandra Berry, et al.

Plaintiffs,

vs.

JOHN WHITE, et al.,

Defendants.

Civil Case No. 2:10-cv-04049
Section A
Judge Jay C. Zainey
Magistrate Judge Karen Wells Roby

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

To: All parents of present or future students with disabilities, regardless of whether a student has been identified as a student with a disability, who reside in New Orleans.

The Louisiana State Superintendent of Education, the Louisiana Department of Education, and the Louisiana Board of Elementary and Secondary Education (collectively, "State Defendants") and the Orleans Parish School Board ("OPSB") have agreed to settle a class action lawsuit regarding the education of students with disabilities in New Orleans. The lawsuit was filed in October 2010 by 10 children, through their parents or guardians, who sought relief on behalf of all present and future New Orleans students with disabilities ("Plaintiffs") pursuant to the Individuals with Disabilities Education Improvement Act of 2004 ("IDEA"); Section 504 of the Rehabilitation Act ("Section 504"); and Title II of the Americans with Disabilities Act ("ADA"). The lawsuit claimed that the State Defendants allegedly failed to effectively coordinate, monitor, and oversee the delivery of special education services across over 60 distinct school districts, or local educational agencies, operating in New Orleans. The lawsuit claimed that as a result of these alleged failures, students with disabilities are subject to discrimination or otherwise excluded from schools; mandatory evaluations for special education eligibility are not conducted; students with disabilities are disciplined without the procedural safeguards required by federal and state law; and students with disabilities are denied the free appropriate public education and related services to which they are entitled. The lawsuit requested that the Court order the State Defendants to remedy these alleged violations.

The purpose of this Notice is to inform you of the status of the lawsuit, including your rights with respect to a Proposed Settlement of the case, and the opportunity to file with the Court any objections you may have to the Proposed Settlement.

1. The Settlement Class: The parties have agreed to a settlement class made up collectively of seven settlement subclasses:
 - a. *Subclass 1:* Present and future New Orleans students who have requested a special education evaluation at a New Orleans LEA, and whose request has not or will not be completed because the student is no longer at that particular LEA.
 - b. *Subclass 2:* Present and future New Orleans students who have requested but not been provided with a special education evaluation because they have not completed a “Response to Intervention” program.
 - c. *Subclass 3:* Present and future New Orleans students who have requested but not been provided with a special education evaluation and instead given a Section 504 Plan.
 - d. *Subclass 4:* Present and future New Orleans students with disabilities attending RSD direct-run or Type 5 charter schools who have been or will be removed for more than 10 days in a school year without the timely provision of the disciplinary safeguards required by the IDEA.
 - e. *Subclass 5:* Present and future New Orleans students with disabilities who have not or will not be provided a related service that is contained in their Individualized Education Programs (IEPs).
 - f. *Subclass 6:* Present and future New Orleans students with disabilities who have been or will be denied admission or instructed not to apply to a public school in New Orleans on the basis of their disabilities.
 - g. *Subclass 7:* Present and future New Orleans students with mobility impairments who have been or will be denied access to the programs and services of a New Orleans LEA as a result of structural or architectural barriers.

If the Court approves this settlement and you are a member of the settlement class, this settlement may affect your rights.

2. Proposal to settle the case by adoption of a Consent Decree: The Plaintiffs and the Defendants have proposed a document that would, if approved by the Court, settle this case. It is a Consent Decree, which the Plaintiffs’ lawyers would monitor and enforce in federal court. The Consent Decree addresses monitoring and oversight activities performed by the State Defendants and OPSB with regard to the education of students with disabilities in New Orleans schools.
3. No money damages are involved in this case: The lawsuit does not involve money damages or the provision of compensatory education, so whether this case settles or goes to trial, no class member will obtain money or compensatory education from the State Defendants or OPSB. Nothing in the Proposed Settlement would prevent you from filing

a separate lawsuit for money damages or for compensatory educational services against the State Defendants or the OPSB.

4. Terms of the Proposed Settlement: The terms of the Proposed Settlement would require the State Defendants and/or the OPSB to do the following:

Consent Decree Provisions:

- a. Develop a schedule allocating responsibility for identifying, locating and evaluating children suspected of having a disability, including children not currently enrolled in a school;
- b. Ensure that the charter school application and renewal processes require schools to provide a description of the school's plans for offering the full array of related services to students with disabilities who are or may come to be enrolled at the school, as well as a description of the staff and personnel responsible for providing related services and pupil appraisal for the school;
- c. Provide New Orleans schools with annual written guidance on its Child Find responsibilities, including what must be done when a parent requests an evaluation for special education, and annual written guidance on its legal obligations to enroll and serve students with disabilities;
- d. Provide New Orleans schools with technical assistance regarding the prohibited practice of undocumented suspensions, and annual professional development regarding the disciplinary procedural protections for students with disabilities and best practices to reduce suspensions and expulsions for students with disabilities;
- e. Review the codes of conduct or discipline policies of each school in New Orleans to ensure they are in compliance with federal and state law;
- f. Require New Orleans schools to annually develop written descriptions of the schools' special education programs to be made available to parents of students with disabilities;
- g. Require New Orleans schools to develop a written complaint investigation protocol describing the schools' processes for investigating allegations of disability discrimination; and
- h. Implement a rigorous and comprehensive monitoring protocol, whereby the State Defendants annually select 10-12 local educational agencies in New Orleans for targeted monitoring, and potentially corrective action.

The summary of the settlement provisions in this Notice does not include all of the terms and conditions of the Proposed Consent Decree. The only complete statement of the

terms of the Proposed Settlement is found in the actual Proposed Consent Decree. A copy of each is attached to this Notice. You may also obtain a copy by writing to:

Melissa Breedlove

Southern Poverty Law Center
1055 St. Charles Avenue, Suite 505
New Orleans, LA 70130

5. Reasons for Settlement: Class Counsel has concluded that the terms and conditions of the Proposed Settlement are fair, reasonable, and adequate and are in the best interests of the class. In reaching this conclusion, Class Counsel has carefully analyzed the benefits of settlement and the risks of an unfavorable outcome in this litigation, as well as the length of time that would be needed to prosecute this case through a trial and possible appeals.
6. If you have no objection to the Proposed Settlement: If you have no objection to the Proposed Settlement, you do not have to do anything.
7. If you object to the Proposed Settlement: If you believe that the Court should not approve the settlement of this case because you disagree with the terms of the Proposed Settlement, you may object. If you wish to object, you must submit the objection in writing. Objections must contain the following information:
 - a. The case name and number: *P.B., et al., v. John White, et al.*, Civil Action No. 2:12-cv-04049 (JCZ);
 - b. Your full name;
 - c. Your status as a class member; and
 - d. A description of the specific provision(s) that you object to about the Proposed Settlement, with an explanation of why you object.

For your objection to be considered by the Judge, you must mail it in by February 2, 2015 to the Clerk of Court:

Clerk of the United States District Court

Attention: *P.B., et al., v. John White, et al.*
500 Poydras Street
New Orleans, LA 70130

8. Fairness Hearing: After reviewing all of the objections that were timely filed, the Court will hold a fairness hearing on February 9, 2015 at 5:00 pm in the U.S. District Court in New Orleans, Louisiana to decide whether or not to approve the Proposed Settlement. If the Judge decides that the Proposed Settlement is fair, adequate, and a reasonable compromise of this case, then the Proposed Settlement will become final.

9. Questions about the Proposed Settlement: If you have questions about the Proposed Settlement or wish to review any of the documents in the case, you may contact:

Melissa Breedlove
Southern Poverty Law Center
1055 St. Charles Avenue, Suite 505
New Orleans, LA 70130

10. If the Court does not approve the Proposed Settlement: If, after the fairness hearing, the Court decides not to approve the Proposed Settlement, the Proposed Settlement will be voided and will have no further effect. The case will not be settled and the lawsuit will proceed. If that happens, there is no assurance that the outcome will be in favor of the class members.