

N.N., et al. v. Rochester City School District

Civil Action No. 19-cv-6526

SUMMARY

In July 2019, a lawsuit was filed on behalf of students with disabilities and their parents/guardians, to address claims of systemic special education violations by the Rochester City School District (the “District”). The lawsuit was tentatively settled in October 2020. The settlement was preliminarily approved by Hon. David G. Larimer, of the United States District Court for the Western District of New York, in December 2020.

A final approval hearing is scheduled for February 4, 2021. After the hearing, Judge Larimer will decide whether the proposed settlement should be finally approved by the Court. Judge Larimer will also decide whether the Court will issue a Consent Decree from the terms of the proposed settlement.

If parents/guardians of students of disabilities wish to object to the tentative settlement, they must follow the instructions from the Court. Those instructions are included in a Notice to Classmembers, available at <https://empirejustice.org/wp-content/uploads/2020/12/FINAL-Notice-LONG-version-12.15.pdf>.

To learn more about the lawsuit and the tentative settlement, please visit the District’s website, at <https://www.rcsdk12.org/NNvRCSD>, and Empire Justice Center’s website, at <https://empirejustice.org/class-notice-in-n-n-et-al-v-rochester-city-school-district-et-al/>. The public is invited to virtually attend a presentation about the lawsuit and the tentative settlement at the January 21, 2021 meeting of the Board of Education.

The District agreed in the settlement to comply with its legal obligations with respect to the delivery of special education services and programs for students with disabilities, those suspected of having disabilities, and those students’ parents/guardians. The District will address the problems with special education described in the Plaintiffs’ lawsuit, mostly by the end of the 2021-2022 school year. Some of the requirements were extended to the end of the 2022-2023 school year because of the Covid-19 pandemic.

To make sure that progress is made towards solving the problems with special education in the District, the District will meet a series of yearly measurable interim performance benchmarks, and final disengagement standards or goals, on 14 different topics. Detailed information about the final disengagement goals and interim performance benchmarks is available on the District’s website.

The 14 final disengagement goals involve:

- Increasing the percentage of students with disabilities who achieve proficient-level scores on new York State English Language Arts and Mathematics assessments;
- Increasing the percentage of students with disabilities who graduate in June;

- Decreasing the percentage of students with disabilities subjected to long term suspension;
- Decreasing any racial disparity that exists in long term suspensions of Black and Hispanic students with disabilities compared to white students with disabilities;
- Increasing the percentage of students with disabilities who receive their instruction in general education classrooms;
- Decreasing the percentage of students with disabilities who are transferred to a different school for a necessary classroom or program;
- Increasing the percentage of students who are age 15 and up who have compliant transition plans to prepare them for graduation and beyond;
- Decreasing the percentage of overdue initial, annual, and reevaluation review Committee on Special Education (“CSE”) meetings;
- Decreasing the number of variances needed from New York State, granted because of lack of capacity in classrooms;
- Increasing the percentage of related service providers reporting their services for students with disabilities;
- Increasing the percentage of parents/guardians participating in students’ Annual CSE meetings;
- Increasing the bilingual program offerings for students with disabilities who require Spanish-language instruction;
- Decreasing the number of special education teachers who do not have a New York State special education teaching certification;
- Decreasing any significant discrepancy that exists in classification as a student with a disability of Black and Hispanic students compared to white students;
- Increasing the number of mandatory professional development trainings for special education teachers and administrators; and
- Developing a strategic plan to address the lack of special education teachers in bilingual classrooms who are appropriately certified in New York State and can demonstrate functional bilingual fluency in Spanish.

The District will report annually on its progress towards meeting the interim performance benchmarks and final disengagement goals. The annual reports will be posted on the District’s website.

The District will be appointing a District administrator as a Consent Decree Coordinator. The Coordinator will be responsible for supervising and coordinating all aspects of the Consent Decree implementation and compliance. The Coordinator will work with schools to make sure they are in compliance, and respond to complaints that are made about compliance with the Consent Decree from the Plaintiffs’ attorneys, parents/guardians, and advocates.

When the District achieves all of the final disengagement goals, and the District shows the Court that it remained in compliance with the goals during the following year, the District may request that the Court release it from the lawsuit. If the District does not meet all of the goals, or falls out of compliance with any of the benchmarks or goals, there are procedures for coming back into compliance including, if needed, the appointment of a Special Master to oversee the District's completion of the Consent Decree requirements. These procedures are described further in the Stipulation of Settlement which is posted on the District's website.

The tentative settlement and forthcoming Consent Decree do not waive or limit any rights of any student with a disability or their parents/guardians. The tentative settlement does not involve issues connected to the closure of schools or remote/virtual education during the Covid-19 pandemic.