

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

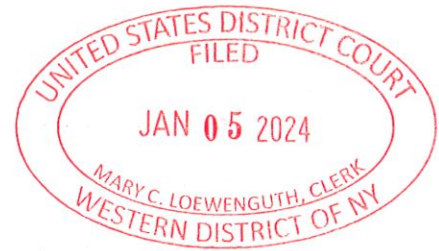
N.N., by his parent, A.N.; T.G., by her parent,  
P.G.; A.H., by her parent, S.H.; T.W., by her  
parent H.M.; Y.R. by her parent, E.R.;  
on behalf of themselves and all persons similarly  
situated,

Plaintiffs,

- vs -

ROCHESTER CITY SCHOOL DISTRICT  
AND THE BOARD OF EDUCATION OF THE  
ROCHESTER CITY SCHOOL DISTRICT,

Defendants.



**ORDER GRANTING FINAL  
APPROVAL OF THIRD  
AMENDED CONSENT  
DECREE**

Civil Action No. 19-cv-6526-DGL

On December 8, 2020, the Court entered its Order [Docket #34] granting the Plaintiffs' Motion for Class Certification, Approval of the Form of Notice and Approval of a Settlement set forth in a Stipulation of Settlement (the "Initial Settlement Stipulation"), and certifying the classes and subclasses described therein.

On February 4, 2021, the Court entered an Order granting Final Approval of the Settlement and a Consent Decree [Docket #38] (the "Initial Consent Decree"). The Initial Consent Decree contemplated that the parties would continue to negotiate the quantitative elements of Interim Benchmark and Final Disengagement Goal ("IBFG") No. 1, and that the parties would present an Amended Consent Decree, including an Amended Exhibit E setting forth the final and complete provisions of the Interim Benchmarks and Final Disengagement Goals.

After the parties completed their negotiations on Interim Benchmark and Final Disengagement Goal No. 1, they submitted a Stipulation to the Court and the Court approved

entry of an Amended Consent Decree incorporating an Amended Interim Benchmark and Final Disengagement Goal No. 1 as part of Amended Exhibit E on March 8, 2022 [Docket #49].

The parties thereafter continued to negotiate anticipated modifications and revisions to Interim Benchmarks and Final Goal No. 1 and submitted a Stipulation for the Second Amended Consent Decree to the Court [Docket #53], and the Court entered a Second Amended Consent Decree incorporating a Second Amended Interim Benchmark and Final Disengagement Goal No. 1 as part of Amended Exhibit E on October 25, 2022 [Docket #54].

Thereafter, the District filed its Annual Report for the 2021-2022 School Year on or about December 1, 2022 [Docket # 58], updated on April 10, 2023 [Docket # 59] that revealed, *inter alia*, that the District had not achieved the Interim Benchmarks for three of the goals (Nos. 2, 7 and 11) and only partially achieved the applicable Interim Benchmark for three additional goals (3, 4 and 14). The District requested that the parties consider revisions to IBFG Nos. 11 and 14 to consider a revision to the definition of “certified teacher” in each of IBFG Nos. 11 and 14 to include categories of teachers who the New York State Education Department considers to be the equivalent of presently certified teachers, including through certain regulations enacted to address COVID-specific situations, and certain categories of teachers recruited by the District through specific initiatives who are working towards certification. The parties engaged in extensive and lengthy negotiations to attempt to agree upon an expansion of the categories of teachers who will be considered to be “certified teachers” for the limited purposes of IBFG 11 and 14 and to extend the date by which the District will be required to meet and maintain the revised Final Disengagement Goals Nos. 11 and 14. The parties have now completed their negotiations and reached agreement on modifications and revisions to IBFG Nos. 11 and 14, and have submitted a Stipulation for the Third Amended Consent Decree to the Court [Docket #--]

specifying the modifications and revisions to IBFG Nos. 11 and 14 that they have agreed upon, and requested judicial approval of the same.

In addition, the parties determined that the language in the preamble and general description of the second portion of Interim Benchmark and Final Goal No. 8, intended to measure an increase in the percentage of related services reported as delivered, was not consistent with the type and nature of the data used for the Interim Benchmarks and the Final Disengagement Goal for IBFG No. 8. After extensive negotiations, and concurrent with the District's acquisition of a new product that is capable of storing and reporting data that can be used to more accurately measure the percentage of related services reported as delivered, the parties reached agreement on modifications and revisions to IBFG No. 8, and have included the modifications and revisions to IBFG No. 8 in the Stipulation for the Third Amended Consent Decree [Docket #--] and requested judicial approval of the same.

Based upon the prior proceedings and the parties' Stipulation for the Third Amended Consent Decree, I find that the proposed revisions and modifications to the Initial Consent Decree, as amended by the Amended Consent Decree and Second Amended Consent Decree, are fair and reasonable and were arrived at through the continued process of informed arms-length bargaining by experienced counsel, and it is hereby

**ORDERED** that the revised Amended Benchmarks and Final Disengagement Goals for IBFG Nos. 8, 11 and 14 set forth in the attachment are **APPROVED** and shall be incorporated into a Third Amended Exhibit E, as attached hereto and shall be incorporated into this Order and become the Third Amended Consent Decree of this Court; and

In all other respects, the terms of the Initial Consent Decree, as amended by the Amended Consent Decree and Second Amended Consent Decree, shall remain in full force and effect.



*January 5, 2024*  
DATED: ~~December 11, 2023~~  
Rochester, New York

*David G. Larimer*  
Hon. David G. Larimer