

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT

Parents Leading for Educational Equity (PLEE), et al. v. Providence Public School Department, et al, C.A. 23-cv-00301-MSM-PAS

ATTENTION:

FOR PARENTS AND GUARDIANS OF ALL CHILDREN WITH DISABILITIES THREE TO FIVE YEARS OLD WHO ARE LIVING IN PROVIDENCE AND HAVE NOT RECEIVED EVALUATION AND DETERMINATION OF ELIGIBILITY FOR SPECIAL EDUCATION AND RELATED SERVICES

(EVALUATION SUBCLASS)

and

FOR PARENTS AND GUARDIANS OF ALL CHILDREN WITH DISABILITIES THREE TO FIVE YEARS OLD WITH DISABILITIES WHO ARE LIVING IN PROVIDENCE AND, HAVING BEEN PROVIDED WITH AN IEP, WERE DENIED OR DELAYED IN RECEIVING FOR SPECIAL EDUCATION AND RELATED SERVICES AND THEIR PARENTS

(SERVICES SUBCLASS)

The United States District Court for the District of Rhode Island has authorized this notice. It is not a solicitation or advertisement from a lawyer. You are not being sued. You have received this notice because your child has been identified as a person who is or may be a member of the class in this lawsuit, and the proposed settlement of the lawsuit, if approved, may affect you and your child's legal rights. You should read this notice carefully.

Your child is a member of the Evaluation Subclass affected by this lawsuit if, as of July 17, 2023 or later, your child is between the ages of three and five, has a disability as defined by the IDEA and is being or will be denied timely evaluation and determination of eligibility for special education and related services by the Providence Public Schools.

Your child is a member of the Services Subclass affected by this lawsuit if, as of July 17, 2023 or later, your child is between the ages three and five, has a disability as defined by the IDEA and had an IEP, and is being or will be denied timely placement and/or services by the Providence Public Schools.

This is a court-authorized notice.

The purpose of this notice is to inform you of a proposed settlement relating to a class action lawsuit. The lawsuit was brought by Parents Leading for Education Equity (PLEE) and Providence children with disabilities as defined by the IDEA and their parents against Providence Public School District, Providence School Board, the Rhode Island Department of Education, and

Angélica Infante-Green, Commissioner of Education (together, “Defendants”), on behalf of two directly affected groups or subclasses, described below. The lawsuit was brought to obtain timely evaluations, eligibility determinations, and special education and related services for preschool students with disabilities who live or will live in Providence and for whom those have been delayed.

The case is titled *Parents Leading for Educational Equity (PLEE), et al. v. Providence Public School Department, et al*, C.A. 23-cv-00301-MSM-PAS in the United States District Court for the District of Rhode Island. The proposed settlement is described in the Settlement Terms on page 5. The proposed settlement must be approved by the United States District Court. This notice includes information about the proposed settlement, and about a hearing scheduled by the Court to decide if the proposed settlement should be approved. This notice also describes the process to follow if you want to communicate with the Court.

On July 17, 2023, Plaintiffs filed this lawsuit alleging that Defendants had violated the Individuals with Disabilities Section Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act. This lawsuit alleged that the Defendants had violated these federal laws by denying students with disabilities timely evaluations and eligibility determinations and timely special education and relate services.

After more than a month of litigation and negotiation, the parties have a Proposed Settlement. This notice provides a summary of the Proposed Settlement and the impact that the Proposed Settlement will have on your rights. If you do not understand the information in this notice, you should contact one or more of the attorneys listed at the end of this notice. You may also, if you want, contact your own attorney at your own expense.

SUMMARY OF YOUR RIGHTS AND OPTIONS		
YOUR OPTIONS	RESULTS	DUE DATE
ACCEPT OR DO NOT OPPOSE THE PROPOSED SETTLEMENT	If you accept or do not oppose the Proposed Settlement, you do not need to do anything. See Questions 5 and 6 for more information.	None
COMMENT ON OR OBJECT TO THE PROPOSED SETTLEMENT	If you want to comment on or object to the terms of the Proposed Settlement, you may tell the Court why you do or do not like the terms of the proposed settlement. Instructions for giving a comment or objection are described later in this notice. See Question 13 for more information.	October 20, 2023

APPEAR AT THE “FAIRNESS HEARING”	If you have filed a written comment or objection by October 20, 2023 , and wish to speak to the Court, you may appear remotely (online) at the “Fairness Hearing” on November 2, 2023 . See Questions 14 through 17 for more information.	November 2, 2023 at 10:00 am
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Case Information

1. What is the purpose of this Notice? This Notice is to explain the lawsuit, the proposed settlement, and your legal rights and your child’s legal rights. Its purpose is to notify as many people as possible who will be affected by the settlement (people who are members of the two groups or subclasses).

2. What is this lawsuit about? The goal of this lawsuit is to correct the failure of the Defendants to provide timely evaluations, eligibility determinations, and special education and related services outlined in students’ IEPs.

3. What is a class action lawsuit? In a class action lawsuit, one or more people called “Class Representatives” sue on behalf of other people who all have similar claims. The people who all have similar claims are called the “Class” or “Class Members.” The Class Representatives—and all Class Members like them—are called the Plaintiffs. The parties they have sued are called the Defendants (in this case, Providence Public School Department, the Providence School Board, the Rhode Island Department of Education, and Angélica Infante-Green in her official capacity as Commissioner of Education). The lawyers who represent the Class are called “Class Counsel.” In a class action lawsuit, all factual questions and legal issues are resolved together for everyone in the Class in one case. Once the Court issues a final judgment in the class action lawsuit, that judgment will be binding on all Class Members. In this case, there are two separate Subclasses, the Evaluation Subclass and the Services Subclass.

4. Why is there a Proposed Settlement? The Court has not decided in favor of either the Plaintiffs or the Defendants on the pending lawsuit. Instead, all parties have agreed to a Proposed Settlement. By settling the claims, the parties can avoid the cost and uncertainty of continued litigation and can resolve the lawsuit in a way that will benefit all parties. Class Counsel in this case think this Proposed Settlement is the best result for all current, potential, and future children who are members of the two subclasses. The Proposed Settlement provides a process for PPSD to achieve timely and permanent compliance with federal requirements for timely evaluations and delivery of special education services. The parties have also agreed that an external monitor appointed by the Court will monitor compliance of the parties’ agreement and provide monthly reports detailing PPSD’s progress in achieving applicable legal deadlines for providing the student evaluations and special education services. The monitoring will continue through October 1, 2024.

Those Who Are Included in the Proposed Settlement

5. Is my child part of the Class? According to the Court's order, there are two subclasses, both involving children with disabilities as defined by the IDEA between the ages of three and five who live or will live in the City of Providence, the Evaluation Subclass and the Services Subclass. Some children may be members of both subclasses while others are members of either the Evaluation Subclass or the Services Subclass. The Evaluation Subclass includes all identified children with disabilities under the IDEA, who, on or after July 17, 2023 are or will be denied timely evaluation and determination of eligibility for special education and related services. The Services Subclass includes all children with disabilities under the IDEA, who on or after July 17, 2023, have been determined eligible for preschool programs under Part B of the IDEA and have been provided an IEP but have been denied or delayed in the provision of the preschool programs and services identified in their IEPs.

6. Is my child included in the Proposed Settlement? If your child is part of the Evaluation Subclass and/or the Services Subclass, your child will be included in the Proposed Settlement and it will apply to your child if the Court approves the Proposed Settlement.

Proposed Settlement Terms

7. What are the terms of the Proposed Settlement? The complete Settlement Terms are posted on the Rhode Island Department of Education website at <https://ride.ri.gov/>, the PPSD website at <https://www.providenceschools.org/>, and the websites of R.I. Center for Justice <https://centerforjustice.org/>; and the ACLU of Rhode Island <https://www.riaclu.org/>.

The following is a summary of important parts of the settlement.

For the Evaluation Subclass the Proposed Settlement requires:

- Starting on August 25, 2023 and continuing thereafter, Defendants will notify parents whose children are overdue on evaluation services that Defendants will pay providers for needed evaluation services at regional market rates from a list of evaluation providers or other qualified providers who are not on the Providence list;
- notify parents that Defendants will consider evaluations provided by outside providers;
- review any existing evaluations and all evaluations provided by parents within six business date of receipt;
- eligibility and IEP meetings may be combined to save time in certain circumstances;
- PPSD will establish and maintain three full-time preschool evaluations teams for the 2023-2024 school year by September 20, 2023, and report to the Court and the Plaintiffs if this goal has been achieved;

- PPSD will establish and maintain at least one preschool evaluation team with meeting times on one weeknight and on Saturday by September 20, 2023 for the 2023-2024 school year, and report to the Court and the Plaintiffs if this goal has been achieved.
- PPSD has already contracted with a provider, a company called Presence, to provide sufficient evaluation teams to eliminate the current backlog.
- The backlog of evaluations will be considered to be solved when 95% of evaluations are being completed within the timeframes required by law or if no more than 10 children's evaluations are overdue at any given time.

For the Services subclass the Proposed Settlement requires:

- Children whose IEPs require special education and related services five days a week will be placed in a five-day program and all program placements will be determined based on what is required in the IEP.
- In integrated preschool classrooms, students with IEPs will receive the same number of days of programming as nondisabled peers in their classroom.
- Any open classroom seats within the Rhode Island Pre-K program or PPSD's integrated preschool program will be prioritized for special education students;
- No later than August 28, 2023, parents will be informed of the proposed school placement for their child for the 2023-2024 school year.
- Until the backlog is eliminated, the Defendants must provide direct payment to qualified providers for the cost of qualified special education and related services at regional market rates.
- The backlog of providing IEP placement and services will be considered to be solved when 95% of services are being provided within the timeframes required by law or if no more than 10 children's services are overdue at any given time.

For both Subclasses, the Defendants will pay for a court-appointed monitor who will provide a written report to the Court monthly starting October 1, 2023 and continuing through October 1, 2024.

8. What are the benefits of the Proposed Settlement? The benefits of the Proposed Settlement are (1) that Defendants are taking and will take steps to eliminate the backlog for the Evaluation Subclass, including hiring multiple additional evaluation teams to provide evaluations and eligibility and IEP meetings; and (2) the Defendants are taking and will take steps to provide special education placements and special education and related services to students who have been waiting for services so that they can receive services in the 2023-2024 school year.

The proposed agreement specifically preserves individual claims regarding the sufficiency of evaluations, eligibility determinations, individual education plans (IEPs), free appropriate public education (FAPE), placement, and claims for individualized compensatory education for

educational services that have been missed, subject to the requirements of the IDEA. Those issues can be pursued by families outside of this class action settlement.

The Settlement provides for a court-appointed monitor who will provide a monthly report to the court starting October 1, 2023 and continuing at least through October 1, 2024. The Defendants will be considered to be in compliance with the agreement if 95% of evaluations and 95% of services are provided on time or no more than 10 students are overdue for evaluations or services. The 95% on time determination will exclude situations where parents miss or cancel appointments.

9. What happens if the Proposed Settlement is approved? The Defendants have already begun implementing the Settlement Terms. If the Proposed Settlement is approved, PPSD will continue implementing the Settlement Terms.. The court-appointed monitor will provide monthly reports starting October 2023 and continuing through October 2024. The proposed agreement specifically preserves individual claims regarding the sufficiency of evaluations, eligibility determinations, individual education plans (IEPs), free appropriate public education (FAPE), placement, and claims for individualized compensatory education for educational services that have been missed, subject to the requirements of the IDEA. Those issues can be pursued by families outside of this class action settlement.

10. How do I accept the Proposed Settlement? You do not need to do anything to accept the Proposed Settlement. If your child is a member of either the Evaluation Subclass or the Services Subclass, your child will receive the benefits of the Settlement.

11. Can I get out of the Proposed Settlement if I don't like it? If your child is a member of the Evaluation Subclass and/or the Services Subclass, you cannot opt out of the Proposed Settlement if you do not like it. If the settlement is approved, it will apply to everyone who is in the class. You can present an objection to the Court explaining your opposition and why you believe that it should not be approved for anyone. Those steps are described in Question 13.

The Lawyers Who Are Representing You

12. Do I have a lawyer representing me in this case? Yes. Class Counsel in this case are Ellen Saideman, Lynette Labinger, and Jennifer Wood. Their contact information is listed below. As Class Counsel, each attorney is required to represent the interests of the Class in this lawsuit. Class counsel are experienced lawyers who have worked on cases like this before.

Supporting or Objecting to the Proposed Settlement

13. How do I tell the Court that I like or do not like the Proposed Settlement? You can tell the Court why the Proposed Settlement should, or should not, be approved. You may submit a written comment telling the Court that you like the Proposed Settlement and that you think it should be approved. You may also object to the Proposed Settlement by telling the Court that you do not like the Proposed Settlement and do not think it should be approved. The Court will consider comments and objections from Subclass Members. You are not required to submit any comments or objections.

To comment on or object to the Proposed Settlement, you must send a letter or email to the Clerk of the Court or have your attorney send a letter or email on your behalf. The letter or email must include the following information:

- your full name, mailing address, and email address where available;
- a statement that you are commenting on or objecting to the Proposed Settlement in *PLEE v. PPSD*, 23-cv-0301-MSM-PAS;
- the factual and/or legal reasons for your comment on or objection to the Proposed Settlement;
- any documents supporting your comment or objection;
- whether you would like to speak at the Fairness Hearing (see Question 17 below); and
- your signature or that of your attorney,

The deadline to submit a comment or objection is October 20, 2023. You must mail or email your comment or objection to the Clerk of the Court so it is received no later than **October 20, 2023**.

Email: rid_ecf_intake@rid.uscourts.gov

Subject line: Re: *PLEE v. PPSD*, 23-cv-301, Fairness Hearing

Clerk of the Court
U.S. District Court for the District of Rhode Island
Federal Building and Courthouse
One Exchange Terrace
Providence, RI 02903

Please also provide a copy of your comment or objection by mail or email to counsel for Plaintiffs (esaideman@yahoo.com or Ellen Saideman, 7 Henry Drive, Barrington, RI 02806) and counsel for Defendants (Anthony.Cottone@ride.ri.gov or Anthony Cottone, Chief Legal Counsel, RI Department of Education, 225 Westminster Street, Providence, RI 02903) at the time you send it to the Court.

If you comment on or object to the Proposed Settlement, you should explain your reason for doing so. The Court may reject any comments or objections that it deems frivolous or that are made for an improper purpose. You are not required to submit a comment or objection. Class Counsel will still represent the collective interests of the Class, both the Evaluation Subclass and the Services Subclass. If you choose not to submit a comment or objection, you will waive your right to be heard individually at the Fairness Hearing on whether to approve the Proposed Settlement and any right of appeal that you may have. **Anyone who wants to speak at the Fairness Hearing needs to notify the Court that they want to speak in their comment or objection.** If you do request to speak at the hearing, you will be given information about how to appear over Zoom.

Fairness Hearing

14. What is the Fairness Hearing? The Fairness Hearing is a session of the Court during which the Court will hear arguments from the lawyers for the parties, and possibly from parents of Class Members (members of the Evaluation Subclass and/or the Services Subclass), on whether the Court should approve the Proposed Settlement. At this hearing, the Court will decide whether the Proposed Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court may or may not choose to hear testimony and receive additional evidence to help the Court make its decision.

After the Fairness Hearing, the Court will decide whether to approve the Proposed Settlement. There is no specific deadline for the Court to issue its decision.

15. When and Where will it Occur? The Fairness Hearing will take place on November 2, 2023 at 10:00 am by Zoom. If you want to speak during the hearing you have to request that in your written comment to the Court and you will be provided with a Zoom link. If you want to see the hearing but don't want to speak, you can get the Zoom link to watch the hearing, the week of the hearing, by going to: <https://www.rid.uscourts.gov/public-access-telephonic-and-video-hearings>.

16. Do I Have to Attend the Fairness Hearing? No. Class Counsel will answer any questions that the Court has and will make arguments on behalf of the entire Class, including both the Evaluation Subclass and the Services Subclass. Even though you are not required to attend, you may participate in the hearing. If you send a comment or an objection, you do not have to attend the hearing. As long as you send your comment or objection according to the requirements explained in Question 13, the Court will consider it. You may also pay your own lawyer to participate, but it is not necessary to hire a separate lawyer. You can submit a comment with or without your own separate lawyer.

17. May I Speak at the Fairness Hearing? You and/or your attorney may ask the Court's permission to speak at the hearing concerning the Proposed Settlement. To do so, you must send a notice that you would like to speak by **October 20, 2023**. The required information you need to provide if you want to speak at the Fairness Hearing is outlined in the answer to Question 13.

If You Do Nothing

18. What happens if I don't do anything? If your child is a Class Member, your child will be included in the Proposed Settlement if it is approved. See Question 9 for more information.

More Information

19. Where can I get more information? The terms of the Proposed Settlement are only summarized in this notice. For the precise and full terms and conditions of the Proposed Settlement, please see the Settlement Terms posted at the RIDE website at <https://ride.ri.gov/>, the PPSD website at <https://www.providenceschools.org/>, and the websites of the R. I. Center for Justice <https://centerforjustice.org/> and the ACLU of Rhode Island at <https://www.riaclu.org/>.

20. What happens after the Fairness Hearing? If the Court approves the Proposed Settlement, the Defendants will continue implementing the Settlement Agreement and the court-appointed monitor will continue providing monthly reports to the Court through October 1, 2024, unless extended by the Court or agreed by the parties. Children and their parents retain their rights to bring individual claims regarding the sufficiency of evaluations, eligibility determinations, IEPs, FAPE, placement and claims for individualized compensatory education for educational services that have been missed, subject to the requirements of the IDEA. Those issues can be pursued by families outside of this class action settlement.

IF YOU DO NOT OPPOSE THIS PROPOSED SETTLEMENT, YOU DO NOT NEED TO DO ANYTHING, APPEAR, OR FILE ANYTHING IN WRITING.

You have the right to consult with the attorneys for the Plaintiffs in this lawsuit and ask them any questions you have. To do so or to obtain more detailed information about the proposed settlement, you can contact the attorneys for the Plaintiffs by telephone, email, or mail at any of the following addresses:

Ellen Saideman, Esq.
Law Office of Ellen Saideman
7 Henry Drive
Barrington, RI 02806
Telephone: 401.258.7276
Facsimile: 401.709.0213
esaideman@yahoo.com

Lynette Labinger
128 Dorrance St., Box 710
Providence, RI 02903
(401) 465-9565
ll@labingerlaw.com

*Counsel for Plaintiffs
Cooperating Counsel,
American Civil Liberties Union
Foundation of Rhode Island*

Jennifer L. Wood, Esq.
The R.I. Center for Justice
1 Empire Plaza, Ste. 410
Providence, RI 02903
Telephone: 401.837.6431
jwood@centerforjustice.org

Please do not direct questions to the District Court or to counsel for the Defendants.