

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW JERSEY**

JOANNA A., et al.,	)	
	)	
Plaintiffs,	)	
v.	)	Case No. 1:18-cv-9580-NLH-MJS
	)	
NEW JERSEY DEPARTMENT OF EDUCATION; LAMONT REPOLLET, Commissioner of Education; and NEW JERSEY OFFICE OF ADMINISTRATIVE LAW,	)	Judge: Edward S. Kiel
	)	Magistrate: Matthew J. Skahill
	)	
Defendants.	)	

**NOTICE OF JOINT MOTION TO ENTER CONSENT ORDER AND
SETTLEMENT AGREEMENT**

To: CLERK OF COURT and ALL COUNSEL OF RECORD

PLEASE TAKE NOTICE that Plaintiffs Joanna A., individually and on behalf of her minor child J.A.¹ (“J.A. Family”); C.M., individually and on behalf of her minor child L.S. (“L.S. Family”); and Ch.M.² and J.M., individually and on behalf of their minor child R.M. (“R.M. Family”) (collectively referred to as “Plaintiffs”) and Defendants New Jersey Department of Education (“NJDOE”), Kevin Dehmer, Commissioner of Education (“Dehmer”), and the New Jersey Office of Administrative Law (“OAL”), by and through respective counsel,

¹ All plaintiffs are identified by initials pursuant to Fed.R.Civ.P. 5.2(a)(3) so as to protect the identities of the minor children.

² Ch.M. is so identified to distinguish him from plaintiff C.M.

pursuant to Fed. R. Civ. P. 41 jointly move before this Honorable Court to enter the Consent Order and Settlement Agreement of the parties and dismiss this action while retaining jurisdiction for twelve (12) months for enforcement.

PLEASE TAKE FURTHER NOTICE that in support of their Motion, Plaintiffs shall reply upon the papers submitted and filed contemporaneously herewith.

The proposed Consent Order is also submitted.

Dated: August 8, 2025

Respectfully submitted,

By: /s/ Robert C. Thurston
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Attorney for State Defendants

CERTIFICATE OF SERVICE

I, Robert C. Thurston, certify that I served all counsel of record the foregoing document by causing the same to be sent via the ECF system and by email to those having not appeared in this matter on the date indicated below.

Dated: August 8, 2025

/s/ Robert C. Thurston
Robert C. Thurston

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW JERSEY**

JOANNA A., et al.,	)	
	)	
Plaintiffs,	)	
v.	)	Case No. 1:18-cv-9580-NLH-MJS
	)	
NEW JERSEY DEPARTMENT OF EDUCATION; LAMONT REPOLLET, Commissioner of Education; and NEW JERSEY OFFICE OF ADMINISTRATIVE LAW,	)	Judge: Edward S. Kiel
	)	Magistrate: Matthew J. Skahill
	)	
Defendants.	)	

**MEMORANDUM IN SUPPORT OF JOINT MOTION TO ENTER
CONSENT ORDER AND SETTLEMENT AGREEMENT**

NO COME Plaintiffs Joanna A., individually and on behalf of her minor child J.A.¹ (“J.A. Family”); C.M., individually and on behalf of her minor child L.S. (“L.S. Family”); and Ch.M.² and J.M., individually and on behalf of their minor child R.M. (“R.M. Family”) (collectively referred to as “Plaintiffs”) and Defendants New Jersey Department of Education (“NJDOE”), Kevin Dehmer, Commissioner of Education (“Dehmer”), and the New Jersey Office of Administrative Law (“OAL”) (collectively referred to as “State Defendants”), by

¹ All plaintiffs are identified by initials pursuant to Fed. R. Civ. P. 5.2(a)(3) so as to protect the identities of the minor children.

² Ch.M. is so identified to distinguish him from plaintiff C.M.

and through respective counsel, and for their memorandum in support of their joint motion to enter the Consent Order and Settlement Agreement in this matter, hereby state as follows:

1. On May 23, 2018, Plaintiffs filed this action in the United States District Court for the District of New Jersey (“the Court”) against State Defendants and others, *J.A., et al. v. N.J. Dept. of Educ., et al.*, No. 18-cv-9850, alleging violations of the Individuals with Disabilities Education Act, 20 U.S.C. 1400 *et seq.* (“IDEA”), and 42 U.S.C. 1983 and seeking wide-ranging declaratory and injunctive relief, as well as compensatory and punitive damages and the recovery of attorney s fees and costs.

2. On May 22, 2019, Plaintiffs filed an Amended Complaint (ECF #31) against State Defendants seeking essentially the same relief.

3. On May 22, 2019, non-party C.P. and others filed a class action lawsuit in the Court against Defendants New Jersey Department of Education and Angelica Allen-McMillan captioned *C.P., et al. v. N.J. Dept. of Educ., et al.*, No. 19-cv-12807 (the “*C.P. Class Action*”), alleging violations of the IDEA and 42 U.S.C. 1983 and seeking wide-ranging declaratory and injunctive relief, as well as the recovery of attorney s fees and costs.

4. On April 11, 2024, the Court entered final approval of the Consent Order and Settlement Agreement in the *C.P. Class Action* resolving the class

claims for violations of 34 C.F.R. 300.515(a) and (c) under IDEA as to NJDOE and the Commissioner, triggering implementation and enforcement of that class action settlement. The OAL is not a party to the Consent Order and Settlement Agreement in the *C.P. Class Action*.

5. On July 26, 2024, Plaintiffs herein filed a Second Amended Complaint (ECF #111) against State Defendants containing seventeen (17) counts based on IDEA, 504 of the Rehabilitation Act of 1973 (“504”), the Americans with Disabilities Act (“ADA”), 1983 of the Civil Rights Act, the New Jersey Law Against Discrimination (“NJLAD”), and the Federal Declaratory Judgment Act, and seeking various forms of relief.

6. The Parties acknowledge and recognize that IDEA and the other special education laws and the regulations implementing those laws referenced in the Second Amended Complaint are federal law and that any regulations or rules promulgated by State Defendants or the State of New Jersey are established in implementation of and subject to those federal laws and where those rules or regulations conflict with federal law, federal law preempts the State regulations and rules.

7. The Parties actively engaged in settlement negotiations to resolve the issues raised in the Second Amended Complaint in this case, assisted in mediation

by retired U.S. Magistrate Judge Joel Schneider. Through these negotiations, the Parties have negotiated and agreed to the specific details of this settlement.

8. The Parties acknowledge and agree that this Settlement Agreement expressly and specifically excludes any and all claims arising out of the matter captioned *J.A., et al. v. Monroe Twp. Bd. of Ed., et al.*, U.S.D.C. D.N.J. Civil No. 1:20-cv-09498 and 1:21-cv-06283 CONSOLIDATED (the “*J.A. Individual Case*”) currently pending in this Court and that all releases in this Agreement are not applicable to that action.

9. The Parties acknowledge that it is in their best interests and public policy to resolve the issues raised in this Settlement Agreement by means other than litigation and, to this end, have agreed to enter into this federally enforceable Consent Order and Settlement Agreement (hereinafter “Agreement”). (A true and correct copy of the Settlement Agreement and proposed Consent Order is attached hereto as Exhibit A.)

10. The Parties have agreed that this case has not and will not be certified as a class action under Rule 23 of the Federal Rules of Civil Procedure.

11. The Agreement has been negotiated by the Parties in good faith and will avoid further litigation between the Parties, with a belief that this Agreement is fair, reasonable, and in the public interest.

HEREFORE, the Parties respectfully demand relief as follows:

- A. That this honorable Court enter this Agreement as a Consent Order finding that this Agreement has been negotiated by the Parties in good faith and will avoid further litigation between the Parties, and that this Agreement is fair, reasonable, and in the public interest;
- B. The Court shall retain jurisdiction over this case until termination of this Agreement not to exceed the twelve (12) month implementation period, for the purpose of resolving disputes arising under this Consent Order or entering orders modifying this Consent Order, or effectuating or enforcing compliance with the terms of this Consent Order;
- C. The Court enter this Consent Order constituting a final judgment of the Court and that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.; and
- D. For such other and further relief as the Court deems equitable and just.

Respectfully submitted by the Parties,

Dated: August 8, 2025

Respectfully submitted,

By: /s/ Robert C. Thurston
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Attorney for State Defendants

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW JERSEY**

Joanna A., individuall and on	)	
ehalf of her minor child J.A.;	)	
C.M., individuall and on ehalf	)	
of her minor child L.S.; CH.M.	)	Case No. 1:18-cv-9580
and J.M., individuall and on	)	
ehalf of their minor child R.M.;	)	
and on ehalf of ALL OTHERS	)	
SIMILARLY SITUATED,	)	Judge Edward S. Kiel
	)	
Plaintiffs,	)	Magistrate Judge Matthew J. Skahill
v.	)	
	)	
NEW JERSEY DEPARTMENT	)	
OF EDUCATION; KEVIN	)	
DEHMER, Acting Commissioner	)	
of Education; and NEW	)	
JERSEY OFFICE OF	)	
ADMINISTRATIVE LAW,	)	
	)	
Defendants.	)	

CONSENT ORDER AND SETTLEMENT AGREEMENT

THIS AGREEMENT is entered into by Plaintiffs Joanna A., individually and on behalf of her minor child J.A.¹ (“J.A. Family”); C.M., individually and on behalf of her minor child L.S. (“L.S. Family”); Ch.M.² and J.M., individually and on behalf of their minor child R.M. (“R.M. Family”) (collectively referred to as “JA Plaintiffs”); and Defendants New Jersey Department of Education (“NJDOE”); Kevin Dehmer, Acting Commissioner of the New Jersey Department

¹ All plaintiffs are identified by initials pursuant to Fed.R.Civ.P. 5.2(a)(3) so as to protect the identities of the minor children.

² Ch.M. is so identified to distinguish him from plaintiff C.M.

of Education (“Commissioner”); and New Jersey Office of Administrative Law (“OAL”) (collectively referred to as “State Defendants”). JA Plaintiffs and State Defendants shall be referred to individually as a “Party” and jointly as the “Parties.”

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I. RECITALS

ITNESSETH THAT:

HEREAS, on May 23, 2018, the JA Plaintiffs filed a putative class action lawsuit in the United States District Court for the District of New Jersey (“the Court”) against State Defendants and others, *J.A., et al. v. N.J. Dept. of Educ., et al.*, No. 18-cv-9850 (the “JA Class Action”), alleging violations of the Individuals with Disabilities Education Act, 20 U.S.C. 1400 *et seq.* (“IDEA”), the Civil Rights Act, and 42 U.S.C. 1983 and seeking wide-ranging declaratory and injunctive relief, as well as compensatory and punitive damages and the recovery of attorney s fees and costs;

HEREAS, on May 22, 2019, the JA Plaintiffs filed an Amended Complaint (ECF #31)³ against State Defendants seeking essentially the same relief;

HEREAS, on May 22, 2019, non-party C.P. and others filed a class action lawsuit in the Court against Defendants New Jersey Department of Education and Angelica Allen-McMillan (collectively referred to as “NJDOE”), *C.P., et al. v. N.J. Dept. of Educ., et al.*, No. 19-cv-12807 (the “C.P. Class Action”), alleging violations of the IDEA and 42 U.S.C. 1983 and seeking wide-ranging declaratory and injunctive relief, as well as the recovery of attorney s fees and costs;

HEREAS, on April 11, 2024, the Court entered final approval of the Consent Order and Settlement Agreement in the *C.P. Class Action* resolving the class claims for violations of 34 C.F.R. 300.515(a) and (c) under IDEA as to NJDOE and the Commissioner, triggering implementation and enforcement of that class action settlement;

HEREAS, the OAL is not a party to the Consent Order and Settlement Agreement in the *C.P. Class Action*;

³ References to the docket in the JA Class Action shall use “ECF #”.

HEREAS, on July 26, 2024, the JA Plaintiffs filed a Second Amended Complaint (ECF #111) against State Defendants containing seventeen (17) counts based on IDEA, 504 of the Rehabilitation Act of 1973 (“504”), the Americans with Disabilities Act (“ADA”), 1983 of the Civil Rights Act, the New Jersey Law Against Discrimination (“NJLAD”), and the Federal Declaratory Judgment Act, and seeking various forms of relief;

HEREAS, the Parties hereby acknowledge and recognize that IDEA and the other special education laws and the regulations implementing those laws referenced in the Second Amended Complaint are federal law and that any regulations or rules promulgated by State Defendants or the State of New Jersey are established in implementation of and subject to those federal laws and where those rules or regulations conflict with federal law, federal law preempts the State regulations and rules;

HEREAS, the Parties have been actively engaged in settlement negotiations to resolve the issues raised in the Second Amended Complaint in this case;

HEREAS, through these settlement negotiations, the Parties have negotiated and agreed to the specific details of this Agreement;

HEREAS, the Parties also acknowledge and agree that this Settlement Agreement expressly and specifically excludes any and all claims arising out of the case captioned *J.A., et al. v. Monroe Twp. Bd. of Ed., et al.*, U.S.D.C. D.N.J. Civil No. 1:20-cv-09498 and 1:21-cv-06283 CONSOLIDATED (the “*J.A. Individual Case*”) currently pending in this Court and that all releases in this Agreement are not applicable to that action;

HEREAS, the Parties acknowledge that it is in their best interests to resolve the issues raised in this Settlement Agreement by means other than

litigation and have on this day agreed to enter this federally enforceable Consent Order and Settlement Agreement (“Agreement”);

HEREAS, the Parties recognize, and the Court by entering this Agreement as a Consent Order finds, that this Agreement has been negotiated by the Parties in good faith and will avoid further litigation between the Parties, and that this Agreement is fair, reasonable, and in the public interest;

NO THEREFORE, with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

II. JURISDICTION

1. This Court has subject matter jurisdiction over this action under 28 U.S.C. 1331 and 20 U.S.C. 1415(i)(3)(A) and other federal laws.

2. Venue is proper under 28 U.S.C. 1391.

3. The parties have agreed that this case has not and will not be certified as a Class Action under Rule 23 of the Federal Rules of Civil Procedure.

III. EQUITABLE RELIEF

4. State Defendants will comply with and apply the Procedural Safeguards listed in IDEA at 20 U.S.C. 1415; the current federal regulations implementing that provision, specifically 34 C.F.R. 300.500 - 300.520; and all current New Jersey regulations implementing that provision, specifically N.J.A.C.

6A:14-2.1 to -2.10 and 17:27A-1.1 to -18.4 to the extent those do not conflict with the federal law. If any of the federal or state implementing regulations are amended or repealed, State Defendants shall within the timeline provided under the Administrative Procedures Act, N.J.S.A. 52:14B-1 *et seq.*, amend their procedures to comply with the modified regulations.

5. All NJDOE staff and all Administrative Law Judges (“ALJs”) assigned to handle special education cases comply with and apply IDEA’s Procedural Safeguards set forth in 20 U.S.C. 1415, 34 C.F.R. 300.500-

300.537 and 300.610-300.627, N.J.A.C. 6A:14-2.6 2.9 and 1:6A-1.1 18.4, and as detailed following.

6. The parties agree that once a case is transmitted to the OAL from NJDOE it is in the interests of the parties to have the matter proceed to a hearing in an expeditious manner.

7. To ensure that future parties filing a request for due process hearing know about the Settlement, when a due process complaint is filed with NJDOE's Office of Special Education ("OSE"), OSE shall include in the acknowledgement of the filing reference to the settlement website of **n s ecialedsettlement.info** to obtain additional information and reference to the form to submit an allegation of a violation of the settlement, which will also be maintained on the OSE website, the OAL website, and **n s ecialedsettlement.info**.

A. Pleading Motions

8. The only relief that may be filed without first obtaining leave from the ALJ assigned to the case is one of the following five types:

- A. A sufficiency challenge under 20 U.S.C. 1415(c)(2)(A); 35 C.F.R. 300.508(d); N.J.A.C. 6A:14-2.7(f).
- B. An amended complaint notice under 20 U.S.C. 1415(c)(2)(E).
- C. A motion to bar evidence under 20 U.S.C. 1415(f)(2)(B) and N.J.A.C. 1:6A-10.1.
- D. An application for emergency relief under N.J.A.C. 1:6A-12.1(a).
- E. A motion for an independent educational evaluation under N.J.A.C. 1:6A-14.4.

9. Of the above five (5) types, none need be filed in a formal fashion beyond what the regulations describe. For all other motions, the party wishing to make a motion must first request a conference call with the ALJ assigned to the case.

10. No other motions may be filed unless prior approval from the ALJ is obtained.

11. Before the parties convene an ALJ-led mediation conference in a parent-filed case, the assigned ALJ Mediator shall determine whether the LEA has sent prior written notice to the parents or a response to the complaint. 20 U.S.C. 1415(c)(2)(B); 34 C.F.R. 300.503(a); N.J.A.C. 6A:14-2.7(d) and (e). If the LEA has failed to do so, the DOE shall instruct the LEA to file such response before the scheduled mediation conference. If the parties agree in writing to waive the resolution meeting, the case is transmitted to the OAL, or a parent in a district-filed case has not filed a response to the complaint, the ALJ assigned to hear the case shall notify the non-complaining party to do so during the initial pre-hearing conference (*see* 15 below).

. **Stay Put Rule**

12. ALJs shall strictly maintain “the then-current educational placement” (“Stay Put”) of the child under 20 U.S.C. 1415(j) and as an “automatic preliminary injunction” under *M.R. v. Ridley School Dist.*, 744 F. 3rd 112, 117 (3rd Cir. 2014) *cert. denied*, No. 13-1547, 2015 L 2340858 (S. Ct. May 18, 2015), and shall cease applying the standard for emergency relief under *Crowe v. De Gioia*, 90 N.J. 126 (1982).

13. The student shall remain in Stay Put and the automatic preliminary injunction shall remain in place until a final decision on the merits of the case.

14. An ALJ shall address any motion or defense asserted or raised by an LEA based on the so-called “15 Day Rule” in accordance with N.J.A.C. 6A:14-2.3(h)(3). NOTE: : the Parents Rights in Special Education publication (“PRISE”) and August 6, 2019 Broadcast Memo also provide guidance on this issue.

C. Initial Pre-Hearing Conference

15. It is best practice that within five (5) days after transmittal of the case from the OSE to the OAL, the assigned ALJ should conduct a pre-hearing conference with the parties and/or their counsel pursuant to N.J.A.C. 1:6A-13.1. It is best practice to conduct such conference via telephone or video-conferencing technology, *e.g.* Zoom. At such time, the ALJ shall discuss with the parties the parameters of the case and required procedures. The ALJ shall generate and distribute a Pre-Hearing Order with such procedures. The ALJ may use the attached form as a model Pre-Hearing Order. (*See Exhibit B.*)

16. After transmittal of the case to the OAL, settlement conferences with an ALJ may occur upon the joint request of the parties. The ALJ conducting such conference may not be the ALJ assigned to hear the case unless the parties agree otherwise. In cases, the adjournment and extension procedures in the Consent Order entered in the *C.P. Class Action* must be followed.⁴

D. 30 Day Resolution Period

17. All mediators, including ALJs serving as mediators, shall receive Mediation training including but not limited to evaluative mediation, in addition to what is contained in section I below.

18. Non-ALJ mediators shall handle all “Mediation Only” petitions.

19. NJDOE shall modify their Request for Due Process form in the section regarding mediation to read as follows: “I am requesting a mediation conference conducted by a mediator that has undergone mediation training in place

⁴ The parties may continue voluntary settlement conferences on their own, see N.J.A.C. 1:6A-4.1, but settlement conferences involving an ALJ after transmittal of the case to the OAL are discouraged because of compliance with the forty-five (45) day timeline and mandates of the *C.P. Class Action* Consent Order as well as conflicting with the purpose of the thirty (30) day resolution period.

of a resolution session. If the school district agrees to mediation in place of a resolution session, a representative of the school district must contact OSE by sending an email to osepdisputeresolution@doe.nj.gov to facilitate the scheduling of the mediation conference.”

E. Access to Student Records

20. Parents have the right to examine all records relating to their child with a disability. 20 U.S.C. 1415(b)(1); *see also* 34 C.F.R. 300.501 and 300.613.

21. An LEA must comply with a request by parents and/or their legal representative to examine their child s records “without unnecessary delay and before any meeting regarding an IEP, or any due process hearing . . . or resolution session . . ., and in no case more than 45 days after the request has been made.” 34 C.F.R. 300.613(a) (emphasis added); *see also* N.J.A.C. 6A:14-2.9(b) (“The parent, adult student, or designated representative shall be permitted to inspect and review the contents of the student s records maintained by the district board of education pursuant to N.J.A.C. 6A:32-7 without unnecessary delay and before any meeting regarding the IEP.”).

22. State Defendants must enforce a parent s right to inspect and review their child s education records in accordance with the above-referenced regulations.

F. 5 Da Rule and Ad ournment E tension Rule

23. OAL will collaborate and cooperate with NJDOE and the Compliance Monitor approved by the Court in the *C.P. Class Action* to meet the compliance standards of that Consent Order.

G. ALJ Qualifications for Special Education Disputes

24. ALJs must meet the qualifications of a “hearing officer” under 20 U.S.C. 1415(f)(3)(A).

25. The Parties agree that an ALJ may only be assigned to or continue with a special education due process hearing if he/she has completed the training and education set forth in Section I of this Agreement.

H. Hearing Rights of the Parties

26. ALJs shall comply with N.J.A.C. 1:6A-10.1(c) (“Upon application of a party, the judge shall exclude any evidence at hearing that has not been disclosed to that party at least five (5) business days before the hearing, unless the judge determines that the evidence could not reasonably have been disclosed within that time.”).

27. ALJs shall comply with 20 U.S.C. 1415(h)(2) (“Any party to a hearing shall be accorded the right to present evidence and confront, cross-examine, and compel the attendance of witnesses.”).

28. ALJs shall comply with 34 CFR 300.502(c) (“If the parent obtains an independent educational evaluation at public expense or shares with the public agency an evaluation obtained at private expense, the results of the evaluation . . . must be considered by the public agency . . . and may be presented by any party as evidence at a hearing on a due process complaint . . .”).

29. ALJs shall comply with N.J.A.C. 1:6A-14.1 (“Procedures for hearing”).

30. ALJs shall comply with N.J.A.C. 1:1-15.1, including N.J.A.C. 1:1-15.1(c) (“All relevant evidence is admissible except as otherwise provided herein.”).

31. ALJs shall issue and enforce their prehearing orders.

I. Prevailing Party Attorneys Fees and Costs

32. ALJs may advise the parties that while they do not have jurisdiction over prevailing party determinations or reimbursement of attorney s fees and costs, they may discuss these issues during settlement conferences and offer options as to how to incorporate them into the settlement or permit them to pursue a fee petition in state or federal court. ALJs should encourage parties to settle their disputes, including those involving attorney s fees and costs.

IV. SETTLEMENT TERMS AS TO TRAINING AND EDUCATION

33. ALJs shall receive training in special education law through a series of academic training modules. Every ALJ who presides over a special education settlement conference or due process hearing must first fully review the written modules and their recorded presentations. The modules are:

- a. Module Series Overview
- b. Child Find and Eligibility under the IDEA
- c. FAPE under the IDEA
- d. Related Services LRE under the IDEA
- e. Other Issues on the Merits under the IDEA (disciplinary changes in placement and independent educational evaluations)
- f. Remedies under the IDEA
- g. Statute of Limitations, Stay-Put, and Other IDEA Technical Issues
- h. Types of Hearings for Students with Disabilities (regular hearings under the IDEA, expedited hearings under the IDEA, emergent relief hearings under New Jersey law, and impartial hearings under Section 504 per jurisdictional delegation under New Jersey law)
- i. IDEA Due Process Hearings and Case Management (best practices)
- j. Terms of and compliance with the Consent Orders entered in this case and the *C.P. Class Action*

V. SETTLEMENT WEBSITE

34. The domain (URL) **ns.ecialedsettlement.info** has been obtained for this case and will be maintained until this Consent Order is terminated. It will be used to provide the information related to this matter, including the Agreement, and for submission of alleged violations. The website shall include a form for filing alleged violations of the terms of this Agreement, which shall mirror the paper form received by the parties upon filing of a due process complaint as described in Section III, 7 above. (*See* Exh. A.)

VI. APPOINTMENT OF COMPLIANCE MONITOR

35. The Court will appoint a Compliance Monitor using the following process:

- a. The parties will attempt to agree upon a candidate to serve as a Compliance Monitor, possibly the same Monitor employed for the *C.P. Class Action*. If that person is unwilling to accept the task, then the parties shall meet and confer on appointment of an acceptable Monitor.
- b. If, in the future, the Compliance Monitor becomes permanently unavailable for any reason or is unable to fulfill the duties of the Compliance Monitor, the parties shall meet and confer to determine whether a mutually acceptable replacement can be recommended to the Court for appointment. If there is no mutually agreed upon candidate, the Parties may make separate recommendations to the Court.
- c. State Defendants are responsible for compensating the Compliance Monitor and will establish a reasonable rate of pay consistent with market rates for the services being performed.

VII. ROLE, DUTIES, TERM AND AUTHORITY OF COMPLIANCE MONITOR

36. The general role of the Compliance Monitor is to provide State Defendants with the support, guidance, experience, and expertise needed to comply with the terms of this Agreement. The Compliance Monitor shall serve in that role for a twelve (12) month period which begins on the date of appointment of the Monitor.

37. The form containing alleged violation(s) of this Agreement (whether in paper form, email, downloaded from the OSE or OAL s websites, or generated from the settlement website) shall be received by the Compliance Monitor during the Monitor s term. Upon receipt of an alleged violation, the Compliance Monitor shall contact the party submitting the form and notify such party of the following options (with or without the assistance of counsel):

- a. The party may request that the ALJ reconsider his/her action or decision because it allegedly violates this Agreement;
- b. The party may file a State Investigation Complaint;
- c. The party may wait until a final decision is issued in the due process case and include the alleged violation in an appeal, if necessary; or
- d. The party may take no action.

The Compliance Monitor shall not provide any legal advice or advise the party as to which option he/she should pursue.

38. The Compliance Monitor shall track all data related to every allegation of violation received. If the Compliance Monitor receives five (5) or more allegations in the same category in other due process cases within a sixty (60) day period, the Compliance Monitor shall refer those allegations to the OSE. The OSE shall make an independent determination if the alleged violation(s) has (have) validity and what, if any, corrective action is needed. The OSE shall thereafter

notify the Compliance Monitor of the corrective action taken and the results thereof to complete the data collection.

39. The Compliance Monitor shall provide a report to the signatories of this Agreement every ninety (90) days, which report shall consist of: (a) the case name and agency number or docket number of the case involved; (b) the date each allegation of violation was received; (c) the category of the alleged violation; (d) whether the party submitting the allegation was provided the options set forth in paragraph 37 above; (e) the total number of allegations received; and (f) whether the issue was referred to OSE and the actions taken by OSE, if any.

VIII. INCENTIVE PAYMENTS TO NAMED PLAINTIFFS

40. State Defendants shall make incentive payments to the family of each named plaintiff in the amount of **2,500**, for an aggregate amount of **500**. This award is subject to any child support and/or State liens against the individual Named Plaintiffs. After final approval, payment will be made upon receipt of completed child support certifications for each Named Plaintiff and New Jersey - 9(s) for the Named Plaintiffs. Upon receipt of the above-mentioned documentation, payment will be made within thirty (30) days. Should payment not be made within sixty (60) days, the Parties may seek assistance of the Court with the addition of any attorney fees and costs incurred. Payments to the Named Plaintiffs should be made via check payable to "Thurston Law Offices LLC IOLTA Attorney Trust Account".

I . ATTORNEY S FEES AND COSTS

41. State Defendants agree that Named Plaintiffs are the prevailing parties for the purposes of an award of reimbursement for attorney s fees and costs under 20 U.S.C. 1415(i)(3)(B)(i)(I) and other federal statutes and are entitled to an award of reasonable and necessary fees.

42. Thurston Law Offices LLC (TLO) has provided State Defendants counsel with a fee demand for the reasonable and necessary fees incurred during this matter. The fee demand for the reasonable and necessary fees already incurred included any and all proofs supporting the demand, including billing records demonstrating the date of service, the hourly rate, the time spent on the work, and a description of the nature of the work performed. After TLO provided State Defendants with its fee demand and the complete accompanying proofs, the parties negotiated the fees with the assistance of the Honorable Joel Schneider, former U.S.M.J. at State Defendants' expense.

43. As a result of the negotiation assisted by the Honorable Joel Schneider, State Defendants will reimburse TLO for attorneys' fees and expenses **Two Hundred Ninety-Seven Thousand Five Hundred Dollars (299,500.00)** for all work performed through entry of this Agreement. State Defendants will not pay this amount from funds received by them through the Individuals with Disabilities Education Act.

44. All payments of attorney's fees and costs will be made after State Defendants' Counsel receive the legally required paperwork, which may include, but is not limited to, a completed State of New Jersey Form NJ-9; State of New Jersey Attorney General's Invoices and/or signed vouchers, to the extent necessary; and registration through the New Jersey Treasury to the extent necessary for the Treasury to process the payment. Upon receipt of the above-mentioned documentation, payment will be made within sixty (60) days. If any debt/lien is owed by TLO to the State, its agencies or departments, such debt/lien shall be deducted from the payment prior to its disbursement. Should any balance be remaining due to nonpayment or incomplete payment within sixty (60) days, the Parties may seek assistance of the Court. Payments shall be made via check payable to "Thurston Law Offices LLC."

• **PROCEDURE FOR APPROVAL OF SETTLEMENT**

45. The parties agree that once this Settlement is signed by counsel for the parties, it shall be submitted to the Court for entry as a Consent Order.

46. This Consent Order, once entered by the Court, shall be binding on all parties to this case.

I. RELEASE OF CLAIMS

47. Effective upon the entry of this Consent Order and Agreement by the Court, in consideration of the relief set forth herein:

- a. It is expressly understood and agreed by the Parties that this Agreement constitutes a complete and final release between the parties with respect to any and all past and present (but not future) liabilities, claims, demands, rights and causes of action, guarantees, claims for damages or other relief, settlements, costs, and compensation of any kind or nature whatsoever, arising out of the Named Plaintiffs' claims, which includes all claims, demands, damages, causes of action, or suits that have been or could have been brought related to the events that gave rise to this matter, including claims for attorney's fees and costs, any claims of which the parties are not aware, and any claims not mentioned in this Release. This excludes, however, the claims brought in *J.A., et al. v. Monroe Twp. Bd. of Ed., et al.*, U.S.D.C. D.N.J. Civil No. 1:20-cv-09498 and 1:21-cv-06283 CONSOLIDATED.
- b. In return for the consideration of this Agreement, the Named Plaintiffs knowingly and voluntarily, completely, and forever, releases and discharges State Defendants and each of State Defendants' officers, from any and all claims, demands, damages, causes of action, or suits that have been or could have been brought related to the events that

gave rise to this matter, including claims for attorney s fees and costs, any claims of which they are not aware, and any claims not mentioned in this Release. This release excludes, however, the claims brought in *J.A., et al. v. Monroe Twp. Bd. of Ed., et al.*, U.S.D.C. D.N.J. Civil No. 1:20-cv-09498 and 1:21-cv-06283 CONSOLIDATED .

II. EFFECTIVE DATE

48. The Effective Date of this Consent Order shall be the date upon which this Consent Order is entered by the Court or a motion to enter the Consent Order is granted, whichever occurs first, as recorded on the Court s docket.

III. RETENTION OF JURISDICTION AND TERMINATION OF CONSENT ORDER

49. The Court shall retain jurisdiction over this case until termination of this Agreement, for the purpose of resolving disputes arising under this Consent Order or entering orders modifying this Consent Order, or effectuating or enforcing compliance with the terms of this Consent Order.

50. This Agreement shall not terminate prior to the twelve (12) month implementation period, but shall terminate thereafter unless Plaintiffs apply to this Court to extend this Consent Order with supporting documentation and data of the number of alleged violations submitted and any evidence supporting the veracity of those alleged violations. This Court may, at its discretion, extend the Consent Order after application if it is satisfied that the number of actual violations has sufficiently increased to more than five (5) substantiated violations in any thirty (30) day period.

IV. OTHER MATTERS

51. *No admission of liability.* Nothing in this Agreement shall be construed to be an admission of liability under any theory asserted in the Second Amended Complaint.

52. *Entire Agreement.* This Agreement, including exhibits, contains all the agreements, conditions, promises, and covenants between Plaintiffs and Defendants regarding matters set forth in it, and supersedes all prior or contemporaneous agreements, drafts, representations, or understandings, either written or oral, with respect to the subject matter of the present Agreement.

53. *Modification.* The terms and conditions of this Agreement can be amended, changed, or altered only by written agreement of the Parties through their respective counsel or by order of the Court upon motion.

54. *Contra Preferendum Rule Not Applicable.* This Agreement is deemed to have been drafted by all Parties, as a result of arm's length negotiations among the Parties. Whereas all Parties have contributed to the preparation of this Agreement, it shall not be construed more strictly against one Party than another.

55. *Execution by Facsimile and in Counterparts.* This Agreement may be executed by the Parties by facsimile and in separate counterparts, and all such counterparts taken together will be deemed to constitute one and the same agreement.

56. *Interpretation.* The language of this Agreement will be construed as a whole according to its fair meaning, and not strictly for or against any of the Parties. The headings in this Agreement are solely for convenience and will not be considered in its interpretation. This Agreement is the product of negotiations and joint drafting so that any ambiguity will not be construed against any Party. If any provision or provisions of this Agreement are found to be contrary to law, the Parties agree that the remaining provisions will not be affected and will remain in full force and effect.

57. *Computation of Time.* Computation of time or periods of time referenced in any document related to this Settlement Agreement shall be computed under Federal Rule of Civil Procedure 65.

58. *Additional Documents.* To the extent any documents are required to be executed by any of the Parties to effectuate this Agreement, each Party agrees to execute and deliver such and further documents as may be required to carry out the terms of this Agreement.

59. *Authority to Bind.* The undersigned each represent and warrant that they are authorized to sign on behalf of, and to bind, the respective Parties of this Agreement.

60. *Changes in Law.* The parties acknowledge that during the term of this Agreement, there may be revisions to the IDEA and its implementing regulations and/or state law. The parties agree that should changes in these laws impact the terms of this Agreement, they will confer and determine whether it is necessary to modify the terms of this Agreement. The parties will submit any proposed modifications to the Agreement to the Court for approval. Should the parties dispute the need for a change in the terms because of a change in law, the Court shall resolve such dispute.

V. FINAL JUDGMENT

61. Upon approval and entry of this Consent Order by the Court, this Consent Order shall constitute a final judgment of the Court. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

**SETTLEMENT AGREEMENT, INCLUDING RETENTION OF
JURISDICTION FOR ENFORCEMENT, APPROVED BY THE COURT:**

Dated and entered this _____ day of _____, 2025

Edward S. Kiel
United States District Judge

FOR NAMED PLAINTIFFS



Robert C. Thurston
Thurston Law Offices LLC

FOR THE DEFENDANTS

Matthew Lynch, Deputy Attorney General


For:

Daniel Dryzga
Assistant Attorney General



EXHIBIT A

r
OFFICE OF ADMINISTRATIVE LAW

RM

Use this form to submit complaints for alleged violations of the Individuals with Disability Education Act (IDEA), 20 U.S.C.A. §§ 1400 to 1482, by an Administrative Law Judge (ALJ) before the ALJ has issued a final decision on the merits of your case. The recognized categories of alleged violations are listed below. Submit the form to [Monitor's email address]. This form may be found at [NJDOE website], [NJOAL website], and

d

R

r

Case Name: _____

OAL Docket No.: _____

Agency Ref. No: _____

ALJ Name: _____

d

(Check all that apply)

	The ALJ allowed a motion to be filed other than one of the following without leave of the tribunal: • an amended complaint notice under 20 U.S.C. 1415(c)(2)(E); • a motion to bar evidence under 20 U.S.C. 1415(f)(2)(B) and N.J.A.C. 1:6A-10.1; • an application for emergency relief under N.J.A.C. 1:6A-12.1(a); • a motion for an independent educational evaluation under N.J.A.C. 1:6A-14.4.
	The ALJ failed to maintain "the then-current educational placement" (aka 'Stay Put') of the child as a preliminary injunction in violation of 20 U.S.C. 1415(j) and applied the standard for emergency relief contained in N.J.A.C. 1:6A-12.1(e).

	The ALJ failed to permit parents and/or their representative to inspect and review education records relating to their children without unnecessary delay and before any meeting regarding an IEP or any resolution session or any hearing in violation of 34 C.F.R. 300.613 and N.J.A.C. 6A:14-2.9.
	The ALJ required formal discovery in violation of N.J.A.C. 1:6A-10.1.
	The ALJ converted the first scheduled hearing into a mandatory settlement conference without the consent of the parties in violation of the consent decree and settlement agreement in [this litigation].
	The ALJ failed to exclude evidence at hearing, which had not been disclosed to that party at least five (5) business days before the hearing, unless the ALJ determined that the evidence could not reasonably have been disclosed within that time, in violation of N.J.A.C. 1:6A-10.1(c).
	The ALJ is not qualified to preside over the due process hearing in violation of 20 U.S.C. 1415(f)(3)(A).

D **d**

D **d** **D** **r** **R**
d

r d D

Your Name (Printed): _____

Today's Date: _____

Your Signature: _____

**EXHIBIT B****State of New Jersey**

OFFICE OF ADMINISTRATIVE LAW

 R R RD R

OAL DKT. NO.

AGENCY REF. NO.

M R ,
Petitioner,M R D ,
Respondent.

On [DATE], a prehearing conference was held in this case and the following matters were settled:

 R R D D R D Nature of Proceedings

[BRIEF DESCRIPTION OF DISPUTE]

Issues to be Resolved

[BRIEF DESCRIPTION OF ISSUE(S)]

$$r \quad r \quad r R \quad d$$

[Respondent(s) or Counsel contact information]

[LIST ANY HERE OR 'NONE']

The hearing is scheduled for:

The location of the hearing shall be: [INSERT LOCATION OF HEARING OR 'ZOOM']

No adjournments will be granted except in strict accordance with the requirements of 34 C.F.R. 300.515(c) and upon a showing of good cause. Adjournments must be in compliance with the settlement in *CP et al v. Secretary Department of Education et al*, D.C.D. Case No. 1:11-cv-00001 (C.P. Circuit) and use the approved adjournment form (included with the transmittal letter).

The parties are encouraged to stipulate to as many facts and documents as possible before the hearing and present those facts and documents to this tribunal no less than five (5) business days before the first day of hearing as a joint stipulation of facts and documents with all documents clearly marked for identification.

The parties shall continue to explore all settlement possibilities.

OAL DKT. NO.

 M DM D

[LIST ANY HERE OR 'NONE'].

 D M

The parties are to exchange documents as soon as practicable and provide such documents to the other side no less than five (5) business days before the start of the hearing.

 RD R R

The school district bears the initial burden of proof and production.

 M R D R D

The parties shall confer in advance of the hearing and designate one copy of all exhibits to serve as the exhibits of record.

A document may be marked as a joint exhibit (see paragraph 5 above) or as an exhibit on behalf of either party only.

 R D D

Documents marked as joint exhibits may be admitted into evidence upon submission to the tribunal. Documents marked as an exhibit of a single party must be offered into evidence, but if relevant will be entered into evidence. *Del. d. ce e er ey Rac C*, 100 N.J. 79, 494 A.2d 1007 (1985) ("In an administrative hearing, all relevant evidence is admissible.")

 M D M R D R

Petitioner estimates that he/she will call ____ fact witness(es) and ____ expert witness(es).

OAL DKT. NO.

Respondent estimates that it will call ____ fact witness(es) and ____ expert witness(es).

M

Motions contemplated: [LIST HERE MOTIONS TO BE FILED OR 'NONE']

Motions pending: [LIST HERE MOTIONS PENDING OR 'NONE']

Motions decided: [LIST HERE MOTIONS DECIDED OR 'NONE']

 R M R

Any evaluation report, re-evaluation report, independent report, or other report, which is offered as an exhibit, shall speak for itself and shall serve as direct testimony of its author as to the substantive contents of the report. Direct examination of the author may be permitted on matters that are important to establishing its evidentiary weight or relevance or to fostering a better understanding of the report. The author shall not repeat the substantive contents of his or her report. Upon admission of the report and direct examination of the author, the opposing party may cross-examine the author. Re-direct examination will be permitted.

The parties shall have sixty minutes for the direct examination of each witness and sixty minutes for the cross-examination of each witness. The sixty-minute time periods include the re-direct examination and re-cross examination of each witness. Any sixty-minute time period may be enlarged or extended for good cause shown or at the discretion of this tribunal.

Because of these time limitations, the scope of cross-examination may be broader than the scope of direct examination.

DATE: _____

/s/ _____
[NAME], ALJ