

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JAMIE S., et al.,
Plaintiffs,

v.

Case No. **01-C-928**

MILWAUKEE PUBLIC SCHOOLS, et al.,
Defendants.

ORDER APPROVING CLASS NOTICE OF SETTLEMENT

The court hereby **approves** the attached class notice of settlement between the plaintiffs and the Department of Public Instruction. A hearing shall be held in Courtroom 254, United States Courthouse, 517 E. Wisconsin Avenue, Milwaukee, Wisconsin at **10:00 A.M.** on **July 28, 2008**, to consider whether the settlement should be given final approval of the court.

The plaintiffs are directed to have the notice published in the Milwaukee Journal/Sentinel newspaper. Publication shall occur on one day during the week of July 7, 2008.

SO ORDERED.

Dated at Milwaukee, Wisconsin this 1st day of July, 2008.

s/AARON E. GOODSTEIN
U.S. Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

JAMIE S., MELANIE V., BRYAN E., BIAGIO R.
by their parents and next friends, KINA K., JANE
P., PETER V., BRIDGET E., AND DEBRA W., on
their own behalf and on behalf of a class of
similarly situated persons,

Plaintiffs,

v.

Case

No. 01-C-0928

MILWAUKEE BOARD OF SCHOOL
DIRECTORS, MILWAUKEE PUBLIC
SCHOOLS, and WILLIAM ANDREKOPOLOUS,
Superintendent of Milwaukee Public Schools in his
official capacity, and the STATE OF WISCONSIN
DEPARTMENT OF PUBLIC INSTRUCTION and
ELIZABETH BURMASTER, State Superintendent
of Public Instruction, in her official capacity,

Defendants.

NOTICE OF CLASS ACTION SETTLEMENT HEARING

The case is called Jamie S., et al., v. Milwaukee Public Schools, et al. Magistrate Judge Aaron Goodstein is overseeing this class action in the U.S. District Court, Eastern District of Wisconsin, Civil Case Number 01-C-0928.

A hearing on the proposed partial settlement of the above captioned matter shall be held before United States Magistrate Judge Aaron Goodstein commencing at 10:00 AM on the 28th day of July, 2008 in Room 254 of the United States Court House, 517 E. Wisconsin Ave., Milwaukee, WI 53202.

All interested class members are invited to attend to address the fairness of this proposed partial settlement between the plaintiffs and the Wisconsin Department of Public Instruction (DPI). Any class members who wish to object to the proposed partial settlement must state their objections in writing and send them to Judge Goodstein at the address listed above no later than July 21, 2008.

The Plaintiffs are asking for declaratory and injunctive relief. They are **not** seeking money damages.

The court has decided that the class of plaintiffs in this lawsuit consists of: *from the date of September 13, 2000 to the present, those students eligible for special services who are, have been or will be denied or delayed entry into the special education process which result in a properly constituted initial IEP meeting between the IEP team and the parents or guardians of the student.*

Examples may include:

- **Parents who requested that their children be evaluated for special education services, and MPS either never evaluated their children, or failed to do so within the legally permissible time period (60 or 90 days from the referral depending on when the referral was submitted);**
- **Students who had an Individualized Education Plan (IEP) meeting to determine whether they should begin receiving special education services, but MPS did not have all the right people at the IEP meeting, in order to make such a decision;**
- **Students, on whose behalf teachers or other professionals, such as doctors or psychologists, suggested to MPS that they should receive special education supports or services, but MPS failed to evaluate those children, or failed to do so within the legally permissible time period (60 or 90 days from the referral depending on when the referral was submitted);**
- **Students who have been suspended more than 10 days in a school year, but MPS failed to hold a special education evaluation in order to determine whether or not those children needed special education services.**

If you are a member of the class, you are represented by attorneys from Disability Rights Wisconsin (DRW), through the class representatives. If you want to find out whether you may be a class member, please contact DRW. The defendants are the Milwaukee Public School District and the Wisconsin Department of Public Instruction. They also have attorneys working on their respective sides.

On September 11, 2007, Magistrate Judge Aaron Goodstein issued an order finding that between September 2000 to June 2005, Milwaukee Public Schools systemically violated the Child Find provisions of the Individuals with Disabilities Education Act (IDEA) in the following ways: (1) MPS failed to refer children with a suspected disability in a timely manner for an initial evaluation, *i.e.*, the 90 day requirement; (2) MPS improperly extended the 90 day time requirement; (3) MPS imposed suspensions in a manner that improperly impeded its ability to refer children with suspected disabilities for an initial evaluation; and (4) MPS failed to insure that the child's parents or guardians attend the initial evaluation. The Court also found that between September 2000 and June 2005, the Wisconsin Department of Public Instruction (DPI) violated the IDEA by failing to adequately discharge its oversight and supervisory obligations in regard to the compliance by MPS with the IDEA and related state statutes, as that compliance relates to the systemic violations found by the Court. The Court ordered the matter to proceed to a remedy stage. DRW and the DPI have reached an agreement of resolution of the matter as it pertains to the claims against DPI. No remedy has been agreed upon with Milwaukee Public Schools and that matter is still pending.

In summary the terms of the agreement include the following:

- 1) Appointment of an independent outside expert to monitor the Milwaukee Public Schools' state and federal special education law obligations, and the establishment of measurable standards for MPS's future performance with respect to a) timely initial evaluations of children for special education; b) parental participation in initial IEP meetings; c) referral of students who reach a set number of suspensions in a given school year to a system of early intervention services to address the student's academic or behavior issues that resulted in suspensions; d) referral of students who are retained in a given school year to the system of early intervention services.
- 2) The independent expert shall conduct a review of policy and procedures in Milwaukee Public Schools and conduct a needs assessment regarding finding children who may be eligible for special education (also known as Child Find). The expert will oversee the creation of a compliance plan to achieve agreed upon performance standards in the Milwaukee Public Schools District and have the authority to see that those standards are met.
- 3) The creation of a parent trainer position housed at Wisconsin Family Assistance Center for Education Training and Support (FACETS) to provide training and support to MPS parents and others for 4 years.
- 4) The payment of attorney's fees to plaintiff's counsel in the amount of \$475,000.
- 5) All class members will release or give up all claims against DPI that arose out of or were related to the litigation, between September 13, 2000, and the date on which the Court approves the settlement agreement.
- 6) Class members do not release or give up any rights to seek relief from MPS with respect to claims that arise out of or are related to the litigation between September 13, 2000, and the date on which the Court approves the settlement agreement, including but not limited to claims for compensatory services for injured class members, and claims for additional attorneys fees and costs.
- 7) Dismissal of DPI as a party defendant in further proceedings in the lawsuit, subject to the Court's retention of jurisdiction to enforce the terms of the agreement.

For a detailed copy of the settlement agreement, contact Disability Rights Wisconsin (DRW) at: 414-773-4646, or see its website www.disabilityrightswi.org.

Jon

**W. Sanfilippo
Clerk of Court
United States District Court
Eastern District of Wisconsin**