

FOR IMMEDIATE RELEASE

Federal Judge Certifies Class Action Against New Jersey Department of Education In Statewide Challenge to Systemic Failure Of Special Education Due Process Hearing System

Camden, New Jersey (Aug. 22, 2022) – This past Friday, August 19, 2022, United States District Judge Noel L. Hillman (District of New Jersey) issued a [47-page written Opinion and Order](#) granting class certification to two classes of parents of children with disabilities, in a lawsuit that challenges the lawfulness of the New Jersey Department of Education’s (NJDOE) system for resolving differences between parents of students with disabilities and their public schools regarding their children’s special education programs.

The two classes certified by the Court in *C.P., et al. v. N.J. Dep’t of Edu., et al.* were (i) an “injunction class,” which asks the Court to step in to require the NJDOE to fix its broken special education dispute resolution system, and (ii) an “issues class,” which seeks declaratory judgments as to the length of time NJDOE has been violating federal law through this broken system, and whether NJDOE engaged in misrepresentations as to its compliance with the law.

Defendant NJDOE oversees and supervises the dispute resolution system for special education in public schools in New Jersey, which is governed by the federal Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. 1400, *et seq.* New Jersey presently receives over \$400 million dollars per year in federal aid directed to special education for New Jersey’s public school children, conditioned on compliance with the IDEA. Under the IDEA, if there is disagreement between a parent and a public school about the education of their child, the parent has the right to a due process hearing, which must, in most cases, be complete – by a final written decision resolving the dispute – within 45 days of the case being sent for a hearing.

In May 2019, a consortium of New Jersey law firms, led by John Rue & Associates, LLC (“JR&A”), filed a class action complaint against NJDOE, alleging that the agency fails to ensure the resolution of parental requests for a due process hearing within 45 days, as required by federal law, where no exceptions to the “45-day rule” are applicable. Parents of ten children with disabilities in New Jersey stepped forward to represent the class until certification. From the time the case was filed until last week, these parents led the charge. In May 2020, Judge Hillman denied NJDOE’s motion to dismiss the complaint. And on Friday, August 19, the Judge certified the two classes, in final preparation for trial in federal court.

“The NJDOE’s due process system is systematically flawed. It ignores and routinely violates the 45-day rule—a rule that recognizes time is of the essence when it comes to educating children,” said John Rue, Principal attorney at JR&A, just appointed Class Counsel. “Parents of children with disabilities are entitled to a system that respects and complies with the ‘45-day rule.’ This class certification decision allows us to proceed on behalf of all parents with children with disabilities who are bringing or contemplating bringing due process claims on behalf of their kids.”

Along with class counsel John Rue & Associates, the following law firms represent the parent plaintiffs in this class action: Coyle Law Group; Law Offices of David R. Giles; The Law Office of Denise Lanchantin Dwyer; Education Law Center; Reisman Carolla Gran & Zuba, LLP; Thurston Law Offices LLC; Walsh Pizzi O’Reilly Falanga LLP; and Wasserman Legal, LLC.

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