

N.G. by F.E. v. New York City Department of Education, et al.

Notice of Proposed Settlement of Class Action Concerning Transition Services for Eligible New York City Students with IEPs Ages 14 To 21

YOU SHOULD READ THIS NOTICE if you are the parent of a student with an individualized education program (“IEP”) who resides in New York City, is 14 years of age or older, is eligible to receive special education services and has been placed by the NYC Department of Education (“DOE”) at a public school or at a New York State Education Department (“NYSED”), state-approved, non-public school OR if you are such a student.

What is this notice about?

In 2014, NYC students 14 years of age or older with DOE IEPs sued DOE, NYSED and the City of New York in a federal class action then captioned M.K. by H.K. and F.E., et al v. New York City Department of Education, et al, 14 cv 6529 (RPK)(RML). In February, 2022, the Complaint was amended to replace and substitute those student plaintiffs who had aged out of the public school system, and to dismiss this action as to the City of New York. The lawsuit is now entitled N.G. by F.E. v. New York City Department of Education, et al., 14 cv 6529 (RPK)(RML). All parties have now asked the Court to approve a proposed settlement agreement (“Settlement Agreement”) pursuant to which DOE and NYSED will take significant steps to improve the “transition” process; that is, the process of preparing students for the transition to adult life after secondary school. Some of those steps are already underway.

Who is a Class Member?

Your child or the person to whom you are in parental relation is a class member and covered by this settlement if they satisfy all of the following criteria: (i) they are a student with an IEP, (ii) they reside in the City of New York, (iii) they are 14 years of age or older, (iv) they are eligible for special education services under the Individuals

with Disabilities Education Act and the N.Y. Education Law, and (v) they have been placed by DOE in a DOE public school or at a NYSED state-approved non-public school.

What is included in the proposed settlement?

1. DOE will inform class members and their parents, in writing, of certain rights and entitlements concerning transition services and resources and the process of planning for the transition to adult life after secondary school.
2. DOE will maintain a “Family Guide To Transition Planning.”
3. DOE will create, maintain, and disseminate a “Transition Manual” for staff, which will serve as a guidance resource for educational professionals for transition assessment, planning, and IEP Meetings.
4. DOE will take steps to provide additional detail in Prior Written Notices, including decisions made at the IEP meeting with respect to a student’s transition activities.
5. DOE will conduct a Transition Assessment for Class Members.
6. DOE will conduct trainings concerning transition planning.
7. DOE will make available to the IEP team the components of transition assessments.
8. DOE will maintain TCACs (Transition And College Access Centers), which will hold events about transition-related issues, including about accessing services from state agencies, and which will support Class Members and other students.
9. DOE will provide certain Class Members who attend DOE schools with “exit

summaries” that include a summary of the Class Member’s academic achievement and functional performance and contain recommendations on how to assist the Class Member in meeting their postsecondary goals.

10. NYSED will perform annual monitoring and reporting with respect to 100 randomly-selected IEPs.
11. DOE’s Office of Auditor General will perform periodic data collection and reporting.
12. The Court will retain jurisdiction to enforce this settlement, consistent with the Settlement Agreement’s terms.

To obtain more information.

The proposed Settlement Agreement can be found on the website of Mayerson & Associates, the attorneys representing the Class, at www.mayerslaw.com. If you have questions, you can call, mail, or email:

Mayerson & Associates
Attn: Transition Settlement
330 West 38th Street, Suite 600
New York, NY 10018
info@mayerslaw.com
(212) 265-7200.

OBJECTING TO THE SETTLEMENT

If you agree with the proposed settlement, you do not need to do anything. If the Court approves the Settlement Agreement, you should see changes in the DOE’s procedures concerning transition planning. You will be bound by the Settlement Agreement, but you are not giving up your right to file a due process complaint challenging your child’s IEP. The Settlement Agreement makes clear that any such claims are “reserved.”

What if I object to the settlement? Class members have the right to tell the Court if they object to the Settlement Agreement. To do so, Class Members must submit their written objections to the Court. **DO NOT CALL THE COURT.** These objections must be postmarked by May 27, 2022 and must be sent to the Court, to counsel for the Plaintiffs, to counsel for the DOE, and to counsel for NYSED at the following addresses:

The Court:

Clerk of Court
United States District Court for the
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Plaintiffs' Counsel:

Gary S. Mayerson
Mayerson & Associates
Attn: Transition Settlement
330 West 38th Street, Suite 600
New York, NY 10018

DOE's Counsel

David S. Thayer
New York City Law Department
100 Church Street
New York, NY 10007

NYSED's Counsel

Mark E. Klein
Office the N.Y. State Attorney General
28 Liberty Street
New York, NY 10005

Objections should clearly indicate that they are submitted in relation to N.G. by F.E. v. New York City Department of Education, et al., 14 cv 6529 (RPK)(RML), and should state the objecting Class Member's name, their parent/guardian's name, the Class Member's address, the Class Member's Student ID, and the reasons for objecting. Only Class Members who timely file and serve objections may be permitted to speak at the hearing on June 28, 2022, at 12:00 p.m. before Magistrate Judge Robert M. Levy at the United States District Court for the Eastern District of New York 225 Cadman Plaza East, Brooklyn, NY 11201.

You can access the Court docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at <https://pacer.uscourts.gov/>.