

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LUREATHA JACKSON, as)	
next of friend for D.M., for)	No. 19 CV 5809
herself and others similarly)	
situated,)	
)	
Plaintiff,)	
)	
v.)	Magistrate Judge Young B. Kim
)	
BOARD OF EDUCATION OF)	
THE CITY OF CHICAGO,)	
)	June 3, 2021
Defendant.)	

**ORDER GRANTING PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT AGREEMENT
AND DIRECTING NOTICE TO SETTLEMENT CLASS**

Plaintiff Lureatha Jackson (“Plaintiff”) on behalf of herself and all others similarly situated (“Plaintiffs”), and Defendant, the Board of Education of the City of Chicago (“Defendant” or “CBOE” or “CPS”) (together, “the Parties”) have entered into a Settlement Agreement and General Release (the “Settlement Agreement”) to resolve the above-captioned suit (the “Action”). The Settlement Agreement provides for the resolution of all claims arising either directly or indirectly out of the events, allegations, and claims which were the basis of the Action, and further releases future claims for any injunctive relief or non-monetary relief arising either directly or indirectly out of the events, allegations, and claims which were the basis of the Action.

The Parties have jointly moved the Court for an order preliminarily (the “Order”) approving the settlement of the Action in accordance with the Settlement Agreement, which, together with the documents incorporated therein, sets forth the terms and conditions for a proposed settlement and dismissal of the Action with prejudice. The Court having read and considered the Settlement Agreement and

having heard the Parties and being fully advised in the premises, hereby preliminarily approves the Settlement Agreement in its entirety subject to the Final Approval Hearing referred to in Paragraph No. 19 of this Order, orders that notice be sent to the Settlement Class, enjoins pending or future proceedings in aid of its jurisdiction, and schedules a Final Approval Hearing to determine whether the proposed settlement is fair, reasonable, and adequate. As such, IT IS HEREBY ORDERED, DECREED, AND ADJUDGED AS FOLLOWS:

1. Terms and phrases in this Order shall have the same meaning as ascribed to them in the Settlement Agreement.
2. The Court finds that it has jurisdiction over the subject matter of this action and over all parties to the Action.

Certification of the Settlement Class

3. For purposes of settlement only, the Court certifies the following Settlement Class as defined in the Settlement Agreement:

(a) “Subclass 1 Members” shall mean and refer to all CPS students with disabilities who were placed by the Board pursuant to the students’ Individualized Education Programs (“IEPs”) at Illinois State Board of Education (“ISBE”) approved non-public schools for the 2017–18, 2018–19, and 2019–20 school years who did not receive Free Nutritional Benefits. The parties understand that Subclass 1 Members includes those students placed at Acacia, Arlyn, Bridgeview, Centerview, Challenger, Chicago Autism Academy, Classroom Connections Day School, Cove, Elim Christian, Esperanza, Giant Steps, Helping Hand, Hopewell Academy of Orland Park, Hyde Park Day School-Chicago, Hyde Park Day School-North, Keshet, Learning House, Laureate, Metro Prep, New Hope Academy, New Hope Academy East, New Horizon, Orchard

Academy, Rush, PACTT Learning Center, School of Expressive Arts and Learning (SEAL), and Soaring Eagle Academy for the 2017–18, 2018–19, and 2019–20 school years who did not receive Free Nutritional Benefits. Subclass 1 Members shall be entitled to all relief under the Settlement Agreement; and

(b) “Subclass 2 Members” shall mean and refer to any student placed in an ISBE approved non-public school by the Board pursuant to the student’s IEP from March 17, 2020, to the termination of this Agreement set forth in Paragraph No. 32 of the Settlement Agreement who does not receive Free Nutritional Benefits. Subclass 2 Members shall be entitled to all non-monetary relief under this Agreement outlined in Section III (8)(A-G) and Section IV(9)(A-B).

4. The Court finds, subject to the Final Approval Hearing referred to in Paragraph No. 19 below, that the Settlement Agreement is fundamentally fair, adequate, and reasonable, and, solely within the context of and for the purposes of settlement only, that the Settlement Class satisfies the requirements of Federal Rule of Civil Procedure 23, specifically, that: the Settlement Class is so numerous that joinder of all members is impracticable; there are questions of fact and law common to the Settlement Class; the claims of the Class Representative are typical of the claims of the members of the Settlement Class; the Class Representative and Class Counsel will fairly and adequately protect the interests of the members of the Settlement Class; common questions of law or fact predominate over questions affecting individual members; and a class action is a superior method for fairly and efficiently adjudicating the Action.

5. The Court further finds that neither the certification of the Settlement Class, nor the settlement of the Action, shall be deemed to be a concession by

Defendant of the propriety of the certification of a litigation class, in the Action or any other action, and Defendant shall retain all rights to assert that the Action may not be certified as a class action except for settlement purposes. Furthermore, the preliminary certification of the Settlement Class, appointment of the class representatives and Class Counsel, and all other actions associated with preliminary approval are undertaken on the condition that the certification and other actions shall be vacated if the Settlement Agreement is terminated or disapproved in whole or in part by the Court, any appellate court, and/or any other court of review, and that the Settlement Agreement shall not be offered, received, or construed as evidence for any purpose, including but not limited to as an admission by Defendant of liability or of any misrepresentation or omission in any statement or written document approved or made by Defendant or of the certifiability of a litigation class, as further provided in the Settlement Agreement.

Preliminary Approval of the Settlement Agreement

6. For purposes of this settlement only: (a) Carrie Chapman, Julie Brennan, and Sarah Hess of Legal Council for Health Justice and Jelena Kolic and Christina Brandt-Young of Disability Rights Advocates are appointed Class Counsel for the Settlement Class; and (b) Lureatha Jackson as next friend of D.M. is named Class Representative of the Settlement Class. The Court finds that these attorneys are competent and capable of exercising the responsibilities of Class Counsel and that Plaintiff Lureatha Jackson will adequately protect the interests of the Settlement Classes defined above

7. The Court finds that, subject to the Final Approval Hearing, the Settlement Agreement is fair, reasonable, and adequate, likely to be approved under

Federal Rule of Civil Procedure 23(e)(2), and in the best interests of the Settlement Class set forth above. The Court further finds that the Settlement Agreement substantially fulfills the purposes and objectives of the class action and provides substantial relief to the Settlement Class without the risks, burdens, costs, or delay associated with continued litigation, trial, and/or appeal. The Court also finds that the Settlement Agreement: (a) is the result of arm's-length negotiations between experienced class action attorneys; (b) is sufficient to warrant notice of the settlement and the Final Approval Hearing to be disseminated to the Settlement Class; (c) meets all applicable requirements of law, including Federal Rule of Civil Procedure 23 and the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715; and (d) is not a finding or admission of liability by the Defendant or any other parties.

8. Should the Settlement Agreement not receive the Court's final approval, should final approval be reversed on appeal, or should the Settlement Agreement otherwise fail to become effective, the Court's grant of class certification shall be vacated, and the Class Representative and the Settlement Class would once again bear the burden of establishing the propriety of class certification. In such case, neither the certification of the Settlement Class for settlement purposes, nor any other act relating to the negotiation or execution of the Settlement Agreement shall be considered as a factor in connection with any class certification issues.

Notice and Administration

9. The Court approves, as to form, content, and distribution, the Notice plan and all forms of Notice to the Settlement Class as set forth in the Settlement Agreement and Exhibits A, B, and C thereto, and finds that such Notice is the best notice practicable under the circumstances, and that the Notice complies fully with

the requirements of the Federal Rules of Civil Procedure. The Court also finds that the Notice constitutes valid, due, and sufficient notice to all persons entitled thereto, and meets the requirements of due process. The Court further finds that the Notice is reasonably calculated, under all circumstances, to apprise members of the Settlement Class of the pendency of the Action, the terms of the Settlement Agreement, and the right to object to the settlement and to exclude themselves from the Settlement Class. The Parties, by agreement, may revise the Notice in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting for publication.

10. The Court approves the request for the appointment of Rust Consulting as Settlement Administrator under the Settlement Agreement.

11. Pursuant to Paragraph Nos. 17 and 18 of the Settlement Agreement, the Settlement Administrator is directed to send direct notice via U.S. Mail in accordance with the Notice plan called for by the Settlement Agreement. Class Counsel shall also maintain a website to provide full information about the Settlement online at <http://legalcouncil.org/resources-cpslunch>.

Exclusions

12. Members of the Settlement Class who wish to exclude themselves from the Settlement Class may do so if, on or before the Objection/Exclusion Deadline of September 10, 2021, they comply with the exclusion procedures set forth in the Settlement Agreement and Notice. Any members of the Settlement Class so excluded shall neither be bound by the terms of the Settlement Agreement nor entitled to any of its benefits.

13. Any members of the Settlement Class who elect to exclude themselves or “opt out” of the Settlement Agreement must file a written request with the Settlement Administrator, received or postmarked no later than the Objection/Exclusion Deadline. The request for exclusion must comply with the exclusion procedures set forth in the Settlement Agreement and Notice and include the class member’s name and address, a signature, the name and number of the case, and a statement that he or she wishes to be excluded from the Settlement Class for the purposes of this Settlement. So-called “mass” or “class” opt-outs shall not be allowed.

14. Members of the Settlement Class who opt out of the Settlement Agreement will relinquish their rights to benefits under the Settlement Agreement and will not release their claims. However, members of the Settlement Class who fail to submit a valid and timely request for exclusion shall be bound by all terms of the Settlement Agreement and the Final Judgment.

Objections

15. Any Settlement Class Members who have not timely filed a request for exclusion may object to the fairness, reasonableness, or adequacy of the Settlement Agreement, or to a Final Judgment being entered dismissing the Action with prejudice in accordance with the terms of the Settlement Agreement, or to the requested incentive award to the Class Representative as set forth in the Notice and Settlement Agreement. Settlement Class Members may object on their own or may do so through separate counsel at their own expense.

16. To object, Settlement Class Members must sign and file a written objection with the Court and send a copy to the Settlement Administrator no later than on or before the Objection/Exclusion Deadline of September 10, 2021. To be valid,

the objection must comply with the objection procedures set forth in the Settlement Agreement and Notice and include the class member's name and address, citations to all legal authority, and factual evidence supporting the objection. The Objection must be postmarked no later than September 10, 2021, and must be received no later than seven days before Final Approval. Timeliness will be determined by the date of the postmark and/or Court filing, whichever is sooner.

17. To be valid, objections must be sent to the Settlement Administrator at: CPS Free Nutrition Settlement, Rust Consulting, 625 Marquette Avenue, Suite 900, Minneapolis, MN 55402.

18. Settlement Class Members who fail to file and serve timely written objections in compliance with the requirements of Paragraph No. 16 above and the Settlement Agreement shall be deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement Agreement or to any of the subjects listed in Paragraph No. 19, below.

Final Approval Hearing

19. The Final Approval Hearing shall be held before this Court on October 1, 2021, in courtroom 1019 of the Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604, to determine: (a) whether the proposed settlement of the Action on the terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate and should be given final approval by the Court; (b) whether a judgment and order of dismissal with prejudice should be entered; and (c) whether to approve the payment of an incentive award to the Class Representative. The Court may adjourn the Final Approval Hearing without further notice to members of the Settlement Class.

Other Matters

20. The Court hereby authorizes the parties, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of the Settlement Agreement and its implementing documents (including all exhibits to the Settlement Agreement) so long as they are consistent in all material respects with the terms of the Final Judgment and do not limit or impair the rights of the Settlement Class.

21. Class Counsel have leave to file a fee petition within 60 days of Final Approval.

22. All further proceedings in the Action are ordered stayed until Final Judgment or termination of the Settlement Agreement, whichever occurs earlier, except for those matters necessary to obtain and/or effectuate final approval of the Settlement Agreement.

23. Settlement Class Members shall be bound by all determinations and judgments in the Action concerning the Action and/or Settlement Agreement, whether favorable or unfavorable.

24. If the Settlement Agreement is not finally approved by the Court in complete accordance with its terms, each party will have the option of having the Action revert to its status as if the Settlement Agreement had not been negotiated, made, or filed with the Court. In such event, the parties will retain all rights as if the Settlement Agreement was never agreed upon.

25. In the event that the Settlement Agreement does not become Final, then: (a) the Settlement Agreement shall be null and void, and shall have no further force and effect with respect to any party in this Action, and shall not be used in the Action

or in any other proceeding for any purpose; (b) all negotiations, proceedings, documents prepared, and statements made in connection therewith shall be without prejudice to any person or party hereto, shall not be deemed or construed to be an admission by any party of any act, matter, or proposition, and shall not be used in any manner or for any purpose in any subsequent proceeding in this Action or in any other action in any court or other proceeding, provided, however, that the termination of the Settlement Agreement shall not shield from the subsequent discovery of any factual information provided in connection with the negotiation of this Settlement Agreement that would ordinarily be discoverable but for the attempted settlement; and (c) other than as expressly preserved by the Settlement Agreement in the event of its termination, the Settlement Agreement shall have no further force and effect with respect to any party and shall not be used in the Action or any other proceeding for any purpose.

ENTER:



Young B. Kim
United States Magistrate Judge