

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

LYDIA REBECCA GASKIN <i>et al.</i> ,)	
)	
<i>Plaintiffs,</i>)	
)	
v.)	No. 94-CV-4048
)	(JUDGE ROBRENO)
COMMONWEALTH OF PENNSYLVANIA,)	
PENNSYLVANIA DEPARTMENT OF)	
EDUCATION, <i>et al.</i> ,)	
)	
<i>Defendants.</i>)	
)	

**PROPOSED ORDER GRANTING PROVISIONAL
APPROVAL OF PROPOSED SETTLEMENT AGREEMENT**

The parties have agreed to a proposed Settlement Agreement and submitted that Agreement to the Court. Based on the stipulations, the terms of the Settlement Agreement, and a thorough review of the record and the controlling legal authority, the Court finds as follows:

1. The Settlement Agreement appears to have been the result of arms-length negotiations between the parties.
2. The Settlement Agreement was negotiated at an advanced stage of the litigation, after extensive discovery had been completed.
3. The proposed Settlement Agreement is recommended by experienced counsel.
4. The proposed Settlement Agreement appears, upon preliminary review, to be fair, adequate, and reasonable, and should be submitted to members of the certified class for their consideration and for a hearing to determine whether the settlement will be approved by the Court.

IT IS THEREFORE ORDERED that:

1. Subject to the hearing of any objections of class members to the proposed settlement embodied in the Settlement Agreement, the Agreement is hereby provisionally approved.

2. The form of Notice submitted by the parties is hereby approved.

3. The Pennsylvania Department of Education shall publish the Notice of Proposed Class Action Settlement in the form attached hereto as Exhibit B, one time in each of the following newspapers: the *Philadelphia Inquirer*; the *Pittsburgh Post-Gazette*; the *Harrisburg Patriot-News*; the *Erie Times & News*; the *Allentown Morning Call*; the *Johnstown Times-Democrat*; and the *Williamsport Sun-Gazette* approximately 30 days before the date set for the Fairness Hearing. The Notice shall be the size of a one-quarter page advertisement.

4. The Pennsylvania Department of Education and plaintiffs' counsel the Public Interest Law Center of Philadelphia shall post copies of the Notice and the proposed Settlement Agreement on their respective websites, where they shall remain posted until such time as the Court acts on the parties' joint motion for approval of the Settlement Agreement.

5. The Pennsylvania Department of Education shall send copies of the Notice of Proposed Class Action Settlement by first class mail or via Penn-Link to each local school district and Intermediate Unit in Pennsylvania and request that the Notice be distributed to the parents of special education students in that school district and posted on a bulletin board in each school building where it may be seen by parents, and that parents be informed how to access copies of the Notice and the proposed Settlement Agreement on the websites of the Pennsylvania Department of Education and the Public Interest Law Center of Philadelphia.

6. The Pennsylvania Department of Education shall send copies of the Notice of Proposed Class Action Settlement by first class mail to all parents of students with disabilities who have filed complaints with the Bureau of Special Education, Division of Compliance, in calendar years 2003 and 2004.

7. The Pennsylvania Department of Education shall send copies of the Notice of Proposed Class Action Settlement by first class mail to all parents of students with disabilities who have been the subject of a due process hearing in the Office of Dispute Resolution in calendar years 2003 and 2004.

8. The plaintiffs shall send copies of the Notice of Proposed Class Action Settlement by e-mail to internet mailing lists for parents of special education students and request that the Notice be distributed to members of that list.

9. The plaintiff organizations shall send copies of the Notice of Proposed Class Action Settlement by e-mail to members of their mailing lists. The plaintiff organizations shall also post copies of the Notice and a link to the proposed Settlement Agreement on their websites, for those organizations that have websites.

10. A hearing shall be held on _____, 2005, before the Honorable Eduardo C. Robreno, to consider whether the Court should give final approval to the Settlement Agreement.

11. Class members and their parents shall have up to and including thirty (30) days prior to the date of the Fairness Hearing to file written objections to the proposed settlement. Any person who files a timely written objection shall be entitled to participate in the Fairness Hearing to support his or her objection. However, no person shall be allowed to participate in

the hearing unless he or she has filed either a written objection or a written notice of intent to participate in the hearing.

12. Any class member may object to the Settlement Agreement by filing an objection and/or appearing at the Fairness Hearing. To be considered by the Court, however, any objection to the final approval of the Settlement Agreement must be timely filed in writing with the Clerk's office on or before thirty (30) days prior to the date for the Fairness Hearing. If any attorney will be representing an individual objecting to the Settlement Agreement, the attorney shall file a Notice of Appearance with the Court and serve counsel for all parties on or before the same date.

13. No particular form of objection is required. The Clerk of the Court is hereby ordered to receive and file any written document commenting upon any aspect of the proposed Settlement Agreement whether in the form of a pleading, letter, post card, facsimile, or e-mail and to enter any such communication on the Court's docket.

14. Class counsel and defendants' counsel shall be prepared at the hearing to respond to any objections filed by class members and to provide other information, as appropriate, bearing on whether or not the settlement should be approved.

IT IS SO ORDERED this ___ day of _____, 200__.

Honorable Eduardo C. Robreno
United States District Judge

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