

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA

NOTICE OF CLASS ACTION SETTLEMENT

Case Name: K.O. et al. v. Jett, No: 21-cv-1837-PJS-DJF

Court: United States District Court for the District of Minnesota

If your special education services in Minnesota ended between July 1, 2019 and July 1, 2022 while you were 21 years old, a class action settlement may affect your rights.

A COURT AUTHORIZED THIS NOTICE. THIS IS NOT A SOLICITATION FROM A LAWYER.

- Individuals referred to as K.O. and A.C. have sued Willie L. Jett II, in his capacity as the Commissioner of the Minnesota Department of Education (the “MDE”), alleging that a Minnesota state statute violated federal law by prematurely terminating special education instructions and services for students’ school days leading up to their 22nd birthday.
- The Court has ruled that the Minnesota statute did violate federal law as alleged, and to settle the lawsuit, Defendant MDE agreed to provide a fund of \$3.2 million for compensatory educational services for Class Members who are not **currently** receiving special education services. The Class consists of individuals:
 - (1) whose birthdates are between July 1, 1998 through June 30, 2001;
 - (2) who received an individualized education program (IEP) and special education instruction and/or services from a Minnesota school district or local education agency (LEA) sometime between July 1, 2019 and July 1, 2022;
 - (3) whose special education instruction and/or services were ended by the Minnesota school district before the student turned 22 years old; and
 - (4) who did not receive a regular high school diploma from a Minnesota school. *Regular high school diploma* means the standard high school diploma awarded to the majority of students in Minnesota that is fully aligned with State standards. *Regular high school diploma* does not include a recognized equivalent of a diploma such as a general equivalency diploma (GED), certificate of completion, certificate of attendance, or a diploma for students who satisfactorily attained the objectives in the student’s IEP.
- The parties have proposed a Settlement of the compensatory education claim on behalf of the Class as explained below. The MDE will create a fund in the amount of \$3.2 million to: (1) reimburse certain educational and transition expenses for Class Members; and (2) to pay administrative costs and attorneys’ fees. The administrative costs and attorneys’ fees will not exceed 20 percent of the Fund. Your share (if any) of the Settlement will be determined by: (1) your birth month; (2) when and why the special education instruction and services ended; and (3) the number of Class Members who submit claims.
- Your legal rights are affected by this Class Action, and you have a choice to make now:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

SUBMIT A CLAIM	<p>Stay in this lawsuit and participate in the Settlement. Send in a Claim Form. Give up certain rights.</p> <p>By sending a Claim Form, you may be entitled to obtain compensatory educational benefits from this Settlement. But you give up any rights to sue the MDE separately about the same legal claims in this lawsuit, including claims under Section 504, the ADA and IDEA.</p>
OBJECT TO THE SETTLEMENT	<p>Tell the Court you object to the Settlement.</p> <p>You may remain in the Class and object to the Settlement by writing to the Court and explaining why you think the Settlement is not fair, reasonable, or adequate. But if the Court approves the Settlement despite your objection, you give up any rights to sue the MDE separately about the same legal claims in this lawsuit. You may also appear at the Final Fairness Hearing to explain the objection.</p>
ASK TO BE EXCLUDED	<p>Get out of this lawsuit. Get no compensatory educational benefits. Keep rights.</p> <p>If you ask to be excluded, you will not obtain compensatory education benefits. But you keep any rights to sue the MDE separately for such compensatory educational benefits and other available remedies.</p>
DO NOTHING	<p>If you do not send a Claim Form or ask to be excluded, you will not obtain compensatory education benefits. But you still give up any rights to sue the MDE separately about the same legal claims in this lawsuit.</p>

- Your options are explained in this Notice. To submit a Claim Form, object to the Settlement, or ask to be excluded, you must act before **December 7, 2024**.
- This Notice also provides important information about disclosure of your educational records.
- **Any questions? Read on and/or call the Claims Administrator at (833) 215-9289.**

BASIC INFORMATION

1. Why did I get this Notice?

The MDE’s records indicate that you previously received special education and related services under the Individuals With Disabilities Education Act (“IDEA”) in Minnesota and that your special education and related services may have been terminated too early during the time period covered by this lawsuit. This Notice explains that the Court has allowed, or “certified,” a class action lawsuit that may affect you. Furthermore, the parties have agreed to the Settlement, which must be approved by the Court before it becomes final. To benefit from the Settlement, you must file a Claim Form by the deadline as explained below. You have legal rights and options that you may exercise. Judge Patrick J. Schlitz of the United States District Court for the District of Minnesota is overseeing this Class Action. The lawsuit is known as *K.O. et al. v. Jett*, Civil Action No: 21-cv-1837- PJS-DJF.

2. What is this lawsuit about?

This lawsuit is about whether a Minnesota state statute improperly allowed MDE, school districts and other local educational agencies (“LEAs”) to terminate special instruction and services to Class Members between their 21st and 22nd birthdays. The Court has ruled that the state statute violated the IDEA by terminating special instruction and services of Class Members between their 21st and 22nd birthdays. The issue left for resolution is the extent to which Class Members are entitled to compensatory education. This case is only about those students whose special education was terminated after July 1, 2019 and before July 1, 2022 due to Minnesota’s prior age-cap statute.

THE CLAIMS IN THE LAWSUIT

3. What are the Plaintiffs asking for?

The Plaintiffs asked that the Court award compensatory education to each Class Member. The nature and extent of that compensatory education will depend on each individual's circumstances.

4. Are there any money or services available now?

Plaintiffs are not requesting money or damages; they are requesting compensatory education. No compensatory education is available now. The parties have agreed that eligible Class Members may receive reimbursement of certain expenses or direct payment to a provider for services as a form of compensatory education, as described below.

WHO IS IN THE CLASS

5. Am I part of this Class?

The Class consists of students:

- (1) who turned 21 years old sometime between July 1, 2019 and July 1, 2022;
- (2) who received an individualized education program (IEP) and special education instruction and/or services from a Minnesota school district or LEA sometime between July 1, 2019 and July 1, 2022;
- (3) whose special education instruction and/or services were ended by the Minnesota school district before the student turned 22 years old; and
- (4) who did not receive a regular high school diploma from a Minnesota school. *Regular high school diploma* means the standard high school diploma awarded to the majority of students in Minnesota that is fully aligned with State standards. *Regular high school diploma* does not include a recognized equivalent of a diploma such as a general equivalency diploma (GED), certificate of completion, certificate of attendance, or a diploma for students who satisfactorily attained the objectives in the student's IEP.

6. I'm still not sure if I am included.

If you are still not sure whether you are included, you can get free help by contacting the Claims Administrator at (833) 215-9289.

THE SETTLEMENT

7. What does the Settlement provide?

The Settlement provides reimbursement for Class Members of certain expenses or direct payment to a provider for services to Class Members. To obtain reimbursement of certain expenses or payment to a provider, a Class Member must submit a Claim Form. The Claims Administrator will determine based on your educational records whether you are eligible for reimbursement of certain expenses or provider payment. If the Claims Administrator determines you are eligible, you will receive another form with instructions to submit certain documents like receipts and invoices about eligible expenses to determine the amount of the reimbursement of certain expenses or provider payment (if any) to which you may be entitled. The amount of reimbursement of certain expenses or provider payment will depend on the number of claims submitted and other factors as explained below.

The amount in the Fund remaining after Taxes, Administrative Expenses, Claimant Navigation Support, and an allowance for further award(s) of attorneys' fees and expenses shall be divided among the eligible claims based on their birth month, with Class Members whose special education was terminated earlier in a school year receiving a larger allocation. Once this formula is applied, the maximum allocation to a Class Member will be determined by the number of eligible claims received. This maximum allocation represents the maximum amount of reimbursement of certain expenses or provider payment that will be provided to a Class Member in the initial distribution from the Fund.

If the amount of your claim that is allowed by the Claims Administrator exceeds the maximum amount, you will receive the maximum amount. But if there are funds left in the Fund after every Class Member who has submitted a Claim Form has been paid either the amount of the claim or the maximum amount (whichever is lesser), the Claims Administrator may at its discretion pay that part of your claim that is over the maximum amount as part of a second distribution from the Fund.

Eligible Class Members are entitled to reimbursement of certain expenses or direct payment to a provider for services for activities or other supports that have or will assist in advancing a variety of goals aligned with the purpose of transition services, including but not limited to the areas of: employment, educational advancement, vocational training, community living, independent living skills, social skills and activities, recreation, self-care, and transportation. The following are examples of activities that may qualify:

- i. educational tutoring;
- ii. post-secondary school tuition or other training;
 1. certificate courses;
 2. community college or other university or post-secondary;
- iii. supports for participating in post-secondary school, such as personal assistance, tools, applications, coaching, or other supports to enable success in post-secondary education;
- iv. related services-type services or therapies (physical therapy, occupational therapy, speech and language therapy, horse therapy, music therapy, adapted physical education, or other similar activities);
- v. supplies to assist with community integration or work or school (for example, textbooks, bicycle, bus pass, other transportation, gym membership, iPad or computer, learning subscription such as applications to learn a second language or other skill);
- vi. community integration and recreation (for example, camps, day programming in community for social activities, community education classes, museum membership);
- vii. additional educational assessments or evaluations;
- viii. computer assisted learning aids;
- ix. virtual learning programs;
- x. tuition assistance;
- xi. general education diploma (GED) tutoring and fee assistance, including reimbursement for fees or services that were paid for by the individual to obtain their GED;
- xii. orientation and mobility services;
- xiii. interpreting services;
- xiv. rehabilitation counseling services;
- xv. psychological services; and
- xvi. social work services.

Initial reimbursements of certain expenses or direct payment to a provider for services will be paid up to twelve months after the deadline to submit a Claim Form and additional reimbursements of certain expenses and other distributions from the Fund will be paid up to six months after the deadline for initial reimbursements of certain expenses or direct payments.

YOUR RIGHTS AND OPTIONS

8. How do I submit a claim and what happens if I do?

You need to submit a claim by the deadline to benefit from the Settlement (if it is approved). The Claim Form with instructions is attached to this Notice. Once the Claim Form is received, the Claims Administrator will determine eligibility as described above. If you are determined to be eligible, you return a second form provided by the Claims Administrator with all requested information, and your claim is properly documented, the Claims Administrator will pay the amount of your claim as explained above.

If you submit a claim, and the Settlement is approved by the Court, you will not be able to sue, or continue to sue, the MDE about the same legal claims that are the subject of this lawsuit. You will also be legally bound by all of the Orders the Court issues and Judgments the Court makes in this Class Action. This is true whether or not you receive any benefits from the Settlement.

9. How do I object to the Settlement and what happens if I do?

If you are a Class Member, you can object to the Settlement if you think it is not fair, reasonable, or adequate. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the Settlement as is.

To object, you must send a letter in writing. Your written objection must: (a) identify the case name and number; (b) explain the reason you are objecting; (c) contain your name, address, telephone number, and email address; (d) include a statement of whether you intend to appear at the Final Fairness Hearing, either with or without an attorney; and (e) be submitted to the Court, postmarked by **December 7, 2024**, to Clerk of Court, United States District Court for the District of Minnesota, 300 South Fourth Street, Minneapolis, MN 55415.

You may also appear at the Final Fairness Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney.

Any Class Member who does not file an objection in the time and manner described above will not be permitted to raise that objection later.

10. How do I ask to be excluded and what happens if I do?

To ask to be excluded, you must send an “Exclusion Request” in the form of a letter sent by mail, stating that you want to be excluded from *K.O. et al. v. Jett*. Be sure to include your name and address, and sign the letter. You must mail your Exclusion Request postmarked by **December 7, 2024** to **Minnesota Disability Law Center, Attention: Sonja Peterson, 111 North 5th Street, Suite 100, Minneapolis, MN 55418**.

If you exclude yourself from the Class—which also means to remove yourself from the Class, and is sometimes called “opting out” of the Class—you won’t get any benefits from this Settlement. However, you may then be able to sue or continue to sue MDE to obtain compensatory education or other available remedies. If you exclude yourself, you will not be legally bound by the Court’s judgments in this Class Action as they relate to compensatory education or other available remedies. If you start your own lawsuit against MDE after you exclude yourself, you’ll have to hire and pay your own lawyer for that lawsuit, and you’ll have to prove your entitlement to remedies. If you do exclude yourself so you can start or continue your own lawsuit against MDE, you should talk to your own lawyer soon, because your claims may be subject to a statute of limitations.

11. What happens if I do nothing?

If you do nothing by the deadline, you will still be considered part of the Class. If you do not send a Claim Form or ask to be excluded, you will not obtain compensatory education benefits. You will not be able to sue, or continue to sue, the MDE about the same legal claims that are the subject of this lawsuit. You will also be legally bound by all of the Orders the Court issues and Judgments the Court makes in this Class Action.

12. Where and when will the Court decide whether to approve the Settlement?

The Court will hold a hearing, the Final Fairness Hearing, to decide whether to approve the Settlement. The hearing will be held on **February 10, 2025, at 8:30 a.m.** at the United States District Court for the District of Minnesota, 300 South Fourth Street, Minneapolis, MN 55415. The hearing may be postponed to a later date without further notice; Class Members should check www.EducationBenefitsClassAction.com regularly for any changes to this date. The purpose of the hearing is to determine the fairness, reasonableness, and adequacy of the Settlement; whether the Class is adequately represented by the Class Representatives and Class Counsel; and whether an Order and Final Judgment should be entered approving the Settlement.

You will be represented at the Final Fairness Hearing by Class Counsel, unless you choose to enter an appearance in person or through your own counsel. The appearance of your own attorney is not necessary to participate in the hearing. You may also ask the Court for permission to speak at the Final Fairness Hearing if you have objected to the Settlement and indicated in the objection that you will appear.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in this case?

The Court decided that Sonja D. Peterson of the Minnesota Disability Law Center and Jason H. Kim of Schneider Wallace Cottrell Konecky are qualified to represent all Class Members. Together, the lawyers are called “Class Counsel.” They are experienced in handling similar cases. More information about these lawyers is available at www.mylegalaid.org/disability-law-center/ and www.schneiderwallace.com.

14. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. But, if you want your own lawyer, you will have to pay that lawyer. For example, you can ask them to appear in Court for you if you want someone other than Class Counsel to speak for you.

15. How will the lawyers be paid?

Class Counsel have already received \$125,000.00 in attorneys’ fees and expenses from MDE. Class Counsel may ask the Court for further awards of attorneys’ fees and expenses. You won’t have to pay any attorneys’ fees and expenses. If the Court grants Class Counsel’s request, the fees and expenses would be deducted from the Fund.

GETTING MORE INFORMATION

16. Are more details available?

Visit the website www.EducationBenefitsClassAction.com where you will find important documents relating to this case. You may also speak to the Claims Administrator at (833) 215-9289 or by emailing them at questions@EducationBenefitsClassAction.com. Do not contact the Court for information about this case or Settlement.

NOTICE OF POTENTIAL DISCLOSURE OF STUDENT RECORDS

Please read this notice carefully. The Attorneys representing children with disabilities in this Class Action and the Class Administrators are seeking access to your student records as a potential Class Member or Class Member.

These records are covered by a confidentiality agreement in the Class Settlement between the parties and will not be disclosed to anyone other than the parties’ attorneys, their experts, Claimant Navigation Support, and the Court. No student’s records will be used for any other purposes than this Class Action nor disclosed to the public or to any other student or individual without your express consent or the consent of your lawfully appointed guardian or legal representative.

This notice applies to you if you received the Notice of Class Action Settlement to which this notice is attached.

As part of this lawsuit, Plaintiffs will seek certain information and documents from the MDE and local education agencies (LEAs) that contain protected personal information of Potential Class Members and Class Members. “Protected Personal Information” includes but is not limited to: student names; parent and guardian names; home addresses; home phone numbers; date of birth, Individualized Education Programs (IEPs) Assessments and Evaluations, transcripts, and other education records on you. The purposes for disclosing this information to the Class Administrator are to locate and contact potential Class Members, and to determine eligibility and compensatory education services for the Class Members.

The Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. § 1232g(b) and 34 C.F.R. § 99.31(a)(9)(ii), the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. §§ 1400, *et seq.* and Minnesota Government Data Practices Act, Minn. Stat. ch. 13, are the federal and state laws that protect the privacy of student records. These laws permit education agencies’ disclosure of these education records pursuant to a court order, so long as a reasonable effort is made to notify students before disclosing the records unless the Court Order makes an exception from that notice requirement.