

## STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Stipulation” or “Settlement”) is made as of March 29, 2024, by and among the following parties, K.O. and A.C. on behalf of those similarly situated (“Plaintiffs”) and Commissioner Willie L. Jett, II, as hereinafter defined: (1) the Class Representatives, on behalf of themselves and the Class, by and through Class Counsel in this Action; and (2) Willie L. Jett, II, in his capacity as the Commissioner of the Minnesota Department of Education, State of Minnesota (“Defendant”), by and through his attorneys in this Action. The Class Representatives and Defendant are the “Parties.”

### **I. DESCRIPTION OF THE ACTION**

Class Representatives filed this Action, titled: *K.O., by and through his parent and guardian J.O., on behalf of a class of those similarly situated v Willie L. Jett, II, in his capacity as the Commissioner of the Minnesota Department of Education, State of Minnesota*, Civil No. 21-CV-01837 (PJS/DJF), on August 12, 2021, in the United States District Court for the District of Minnesota. Class Representatives contend that a Minnesota statute, Minn. Stat. § 125A.03(b), violated the Individuals with Disabilities Education Act (“IDEA”) by discontinuing special education services to students with disabilities on July 1 after their 21<sup>st</sup> birthday if they have not received their high school diploma. On September 29, 2022, pursuant to a stipulation of the Parties, the Court certified the class. In January 2023, the Parties made cross-motions for summary judgment.

While the Parties’ summary judgment motions were pending, the Minnesota Legislature amended Minn. Stat. § 125A.03(b) to provide that students with disabilities without a high school diploma are entitled to receive special education until their 22<sup>nd</sup>

birthday. Act of May 24, 2023, ch. 55, art. 7, secs. 1, 2, 5, 6, and 7 (“Legislative Amendment”). The Legislative Amendment took effect on July 1, 2023. *Id.* The Parties advised the Court on June 2, 2023 that they agreed the Legislative Amendment renders moot the claims of class members who turned or will turn 21 on or after July 1, 2022. Jun 2, 2023 Letter to Court, ECF Doc. No. 68.

On August 25, 2023, the Court issued its order granting the Plaintiffs’ motion for summary judgment and declaring that the version of Minn. Stat. § 125A.03(b) that was in effect prior to July 1, 2023, violated the IDEA in denying special education to students with disabilities who had not received high school diplomas and had not yet reached the age of 22. The Court also ordered the Defendant to provide compensatory education to class members who turned 21 years of age prior to July 1, 2022. The Court Order was not appealed by September 27, 2023. Subsequently, in Fall of 2023, the Parties agreed to defer Defendant’s provision of compensatory education services and other proceedings in this Action until the Court can consider the Settlement described in this Stipulation.

## **II. BENEFITS OF SETTLEMENT TO THE CLASS**

Plaintiffs and their counsel believe the settlement outlined below is fair, reasonable, and offers practical benefits to the class members. The class as certified includes individuals who exited the special education system as many as five years ago. It is impractical and would offer limited benefit to arrange for the re-entry of such individuals into Minnesota’s special education system for a short period of time to receive compensatory education in the form of additional full free appropriate public education (“FAPE”). In lieu of full FAPEs, this settlement provides for flexible reimbursement for a

wide range of education-related expenses, which is more useful relief for students who have exited the formal special education system.

The amount of the settlement fund was set based on arms-length negotiation between counsel for Plaintiffs and counsel for Defendant. It is based on Defendant's expenditures for special education and counsel for Plaintiffs' estimate of the number of class members who are likely to make claims and the amount reasonably necessary to satisfy such claims.

The structure of this settlement is based on settlement of a similar action in Hawaii, although in comparison it has been simplified to avoid administrative complexities that created delay, litigation, and increased costs in Hawaii.

### **III. DEFENDANT'S DENIALS OF WRONGDOING AND REASONS FOR SETTLEMENT**

Defendant asserted numerous defenses and denies liability as alleged in the Action. Nevertheless, Defendant has considered that members of the Class are students who turned 22 within the three years prior to the change in law and will benefit most by receiving compensatory services as soon as possible. Defendant also recognizes that there are risks attendant in any litigation. Defendant has, therefore, determined that it is desirable and beneficial to all Parties that the Action be settled in the manner and upon the terms and conditions set forth in this Stipulation to eliminate the burden, delay, and expense of further protracted litigation, and that the class members will receive the compensatory services as quickly as possible.

### **IV. TERMS OF THE AGREEMENT**

**NOW, THEREFORE**, it is hereby stipulated and agreed, by and among the undersigned Parties, that the Action shall be settled, subject to the approval of the Court pursuant to Fed. R. Civ. P. 23(e), upon and subject to the following terms and conditions:

**A. Definitions**

1. “Action” means the federal action titled: *K.O., by and through his parent and guardian J.O., on behalf of a class of those similarly situated v Willie L. Jett, II, in his capacity as the Commissioner of the Minnesota Department of Education, State of Minnesota*, Civil No. 21-CV-01837 (PJS/DJF).
2. “Administrative Expenses” means: (a) the costs, fees and expenses that are incurred by the Claims Administrator in connection with providing notice to the Class and administering the Settlement, including but not limited to the claims process; (b) fees and expenses incurred in connection with the Escrow Account; (c) Taxes; and (d) the out-of-pocket expenses incurred by Class Counsel in connection with determining the amount of, and paying, any Taxes (including, without limitation, expenses of tax attorneys and accountants).
3. “Authorized Claimant” means a person who has been identified from an education agency’s education records as being a Class Member, or a Class Member who submits a Claim Form to the Claims

Administrator that is approved for Compensatory Education Award pursuant to any of the Class Distribution Orders.

4. “Bar Date” means 120 days from the date that the Notice is mailed to Class Members.
5. “Claim” means a submission by a Class Member on the Claim Form and/or Supplemental Claim Form.
6. “Claimant” means a person who submits a Claim Form and/or Supplemental Claim Form.
7. “Claim Period” means the period ending on the Bar Date. Class Members must submit a Claim Form for compensatory education on or before the Bar Date.
8. “Claimant Navigation Support” means resources and support for Authorized Claimants and their families to assist with utilizing distributed funds in alignment with the Plan of Distribution and to assist families with understanding the impact of any distributions on benefits.
9. “Claims Administrator” means Continental DataLogix LLC, 1684 S. Broad Street, Suite 140, Lansdale, PA 19446.
10. “Class” means all children: (a) who are receiving or received special instruction and services pursuant to the Individuals with Disabilities Education Act and Minnesota Special Instruction laws from a local educational agency in Minnesota, (b) who became 21 years old after

July 1, 2019, or will become 21 during the pendency of this action, (c) whose special instruction and services ended, or will end, on July 1 after their 21<sup>st</sup> birthday pursuant to Minn. Stat. § 125A.03(b), (d) whose special instruction and services ended, or will end, before they complete the graduation requirements to receive a regular high school diploma as defined in 34 C.F.R. 300.102(a)(3)(iv). On June 2, 2023, the Parties stipulated that the 2023 Legislative Amendment rendered moot the claims of class members who turned or will turn 21 on or after July 1, 2022.

11. “Class Counsel” means Mid-Minnesota Legal Aid/Minnesota Disability Law Center and the Schneider Wallace Cottrell Konecky firm.
12. “Class Distribution Orders” means orders entered by the Court authorizing and directing that the Net Settlement Fund be distributed, in whole or in part, to Authorized Claimants.
13. “Class Member(s)” means a member of the Class as ordered by the Court and stipulated by the Parties.
14. “Class Representatives” means K.O (suing through his parent J.O.) and A.C. (suing through her parents D.C. and J.C.) as identified in the Class Certification and as stipulated by the Parties.
15. “Court” means the United States District Court for the District of Minnesota.

16. “Defendant” means Willie L. Jett, II, in his capacity as the Commissioner of the Minnesota Department of Education, State of Minnesota, or his successor.
17. “Defendant’s Releasees” means the State of Minnesota, the Minnesota Department of Education, local education agencies, and their officers, employees, agents, representatives, attorneys, and insurers, predecessors, successors, and assigns.
18. “Education Records” are education records on students whether located at the local education agency or the Minnesota Department of Education.
19. “Effective Date” means the date on which the Court’s judgment approving this Stipulation, in substance materially the same as the form attached hereto as Exhibit A, becomes Final.
20. “Fairness Hearing” means the hearing or hearings before the Court to determine whether the Final Judgment Order should be entered and to consider related matters.
21. “Final,” with respect to the judgment or any other court order, means:
  - (a) if no appeal is filed, the expiration date of the time provided for filing or noticing any appeal under the Federal Rules of Appellate Procedure; or (b) if there is an appeal from the judgment or order,
    - (i) the date of final dismissal of all such appeals, or the final dismissal of any proceeding on certiorari or otherwise, or (ii) the date the

judgment or order is finally affirmed on an appeal, the expiration of the time to file a petition for a writ of certiorari or other form of review, or the denial of a writ of certiorari or other form of review, and, if certiorari or other form of review is granted, the date of final affirmance following review pursuant to that grant. However, any appeal or proceeding seeking subsequent judicial review pertaining solely to an order issued with respect to (a) the Fee and Expense Application (as hereinafter defined), or (b) the Plan of Distribution of the Net Settlement Fund (as submitted or subsequently modified), shall not in any way delay or preclude a judgment from becoming Final.

22. “Final Judgment Order” means the Order for Final Judgment approving the Settlement that is in substance materially the same as Exhibit A to this Stipulation.
23. “Litigation Expenses” means costs and expenses incurred by the Class Representatives or Class Counsel in connection with commencing, prosecuting and settling the Action, including any service awards for the Class Representatives directly related to their representation of the Class.
24. “Notice” means Notice of Class Action Determination, Proposed Settlement, and Hearing Thereon, substantially in the form attached hereto as Exhibit B, which is to be mailed to Class Members as



directed by the Court and made available for download on a website to be maintained by the Claims Administrator.

25. “Plaintiffs’ Releasing Parties” means the Class Representatives and Class Members, where applicable their parents or guardians, and any person or entity that has or claims to have rights through the Class Representatives or Class Members.
26. “Potential Member of Class” means all students (1) who were enrolled and received special instruction and services pursuant to the Individuals with Disabilities Education Act and Minnesota Special Instruction laws from a local educational agency in Minnesota, (b) who became 21 years of age between July 1, 2019 and July 1, 2022, (c) whose special instruction and services ended before their 22<sup>nd</sup> birthday pursuant to pre-2023 Minnesota law Minn. Stat. § 125A.03(b).
27. “Preliminary Approval Order” means an order granting preliminary approval of the Settlement that is in substance materially the same as Exhibit C to this Stipulation.
28. “Released Plaintiffs’ Claims” means any and all claims, liabilities, demands, actions, and causes of action of every kind and nature whatsoever, whether existing or not existing, asserted or unasserted, liquidated or unliquidated, absolute or contingent, direct or derivative,

in law or in equity, arising out of federal, state, foreign, or common law, including Unknown Claims, that the Plaintiffs' Releasing Parties have ever had, presently have, or may in the future have or claim to have, against Defendant or any of Defendant's Releasees by reason of any matter, event, cause or thing whatsoever arising out of, based in whole or in part upon, relating to, or existing by reason of the class members' rights under IDEA.

29. "Settlement" means the settlement between the Class Representatives and Defendant on the terms and conditions set forth in this Stipulation.
30. "Settlement Fund" means the sum of \$3,200,000 to be paid by Defendant as specified in ¶ IV(D) of this Stipulation.
31. "Taxes" means: (a) all federal, state and/or local taxes of any kind (including any interest or penalties thereon) on any income earned by the Settlement Fund; and (b) all taxes imposed on payments by the Settlement Fund, including withholding taxes.
32. "Unknown Claims" means any Released Plaintiffs' Claims which the Class Representatives or any other Class Member does not know or suspect to exist in his, her, or its favor at the time of the release of such claims which, if known by him, her, or it might have affected his, her, or its decision(s) with respect to this Settlement. The Parties stipulate and agree that, upon the Effective Date of the Settlement, the Class Representatives shall expressly waive, and each of the Class Members

who has not opted out shall be deemed to have waived, and by operation of the judgment shall have expressly waived, any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law. The Class Representatives acknowledge, and each of the other Class Members shall be deemed by operation of law to have acknowledged, that the foregoing waiver was separately bargained for and is a key element of the Settlement. The Class Representatives further acknowledge, and all Class Members shall be deemed by operation of the Final Judgment Order to have acknowledged, that they are aware that they may hereafter discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matters of the Released Plaintiffs' Claims, but that it is their intention upon the Effective Date, to have, fully, finally, and forever settled and released any and all claims within the scope of the Released Plaintiffs' Claims, whether known or unknown, suspected or unsuspected, contingent or noncontingent, whether or not concealed or hidden, which now exist, may hereafter exist or may heretofore have existed, without regard to the subsequent discovery or existence of such different or additional facts. All of the foregoing is the definition of "Unknown Claims."

**B. The Court's Order Preliminarily Approving The Settlement**

As soon as practicable after the execution of this Stipulation, Class Counsel shall apply to the Court for entry of an order that is in substance materially the same as the proposed Preliminary Approval Order attached hereto as Exhibit C, which shall specifically include provisions which:

1. Preliminarily approve the Settlement as embodied in this Stipulation as being fair, reasonable, and adequate to the Class;
2. Appoint the firm of Continental DataLogix LLC to administer the notice procedure and the processing of claims ("Claims Administrator"), under the supervision of Class Counsel;
3. Approve (a) a Notice that is in substance materially the same as Exhibit B attached hereto for transmission to Class Members in order to provide notice of the hearing for approval of the Settlement, (b) a Claim Form that is in substance materially the same as Exhibit D attached hereto that must be submitted on or before the Bar Date.
4. Provide and Order the Defendant and local education agencies to disclose education records on Potential Members of the Class to the Class Administrator as follows:
  - (a) The Minnesota State Department of Education ("MDE") is hereby ordered to disclose to the Claims Administrator the following data on Potential Members

of the Class from the MDE Minnesota Automated Reporting Student System (“MARSS”) reporting system:

- (1) Student’s Name;
- (2) Student’s Birthdate;
- (3) Student’s last status end date; and
- (4) Name of last School District enrolled and the last district’s identifier

MDE must make a reasonable effort to notify Potential Members of the Class of the disclosure. 34 C.F.R. § 99.31(a)(9)(ii). There are approximately 3,200 Potential Members of the Class, MDE does not have access to contact information for the Potential Members of the Class, the information to be disclosed is limited in scope and not highly sensitive, the Court’s order will limit the use and disclosure of the information disclosed, and the records disclosed will be used to offer services to many Potential Members of the Class. Under these circumstances, the following measures constitute a reasonable effort to notify the Potential Members of the Class.

- (i) Posting a notice of the disclosure prominently on MDE's website;
- (ii) Including notice of the disclosure in MDE's newsletters to LEAs with a request that the LEAs spread the notice in ways they deem effective;
- (iii) Issuing a joint press release with Disability Law Center that includes notice of the disclosure;
- (iv) Providing a written notification of the disclosure to disability advocacy organizations, including PACER Center, Autism Society of Minnesota, the Minnesota Consortium for Citizens with Disabilities, Metropolitan Center for Independent Living, Access Press, Mental Health Minnesota, Minnesota Association of Community Mental Health Programs, Minnesota Brain Injury Alliance, Minnesota Statewide Independent Living Council, National Alliance on Mental Illness: Minnesota, the ARC Minnesota, and Disability Law Center, for those organizations to distribute among the disability community in Minnesota;

- (v) Providing a written notification of the disclosure to state government entities, including the Minnesota Council on Disability, the Minnesota Deaf and Hard of Hearing Services Division, the Minnesota Governor's Council on Developmental Disabilities, and State Services for the Blind of Minnesota, for those organizations to distribute among the disability community in Minnesota; and
  - (vi) Providing a written notification of the disclosure to county health and social services agencies to be posted in their offices.
- (b) Local Education Agencies in Minnesota are hereby ordered to disclose contact information on Potential Members of the Class or their parents or guardians to the Claims Administrator upon request by the Claims Administrator. Minn. Stat. § 13.32, subd. 3(b) and 34 C.F.R. § 99.31(a)(9)(i).
- (c) Local Education Agencies in Minnesota are hereby ordered to disclose educational data necessary for the Claims Administrator to determine eligibility of Potential Class Members or compensatory education

services to Class Members, upon request by the Claims Administrator. Minn. Stat. § 13.32, subd. 3(b) and 34 C.F.R. § 99.31(a)(9)(i).

5. Direct that the Claims Administrator mail the Notice and Claim Form to Potential Class Members who have been identified through Defendant's records, as set forth in the Preliminary Approval Order, and make the Notice and Claim Form available to Potential Class Members on a settlement website or by calling a toll-free number;
6. Find that mailing and distribution pursuant to ¶¶IV(B)(3) and (4) above constitute the best notice practicable under the circumstances, constitute due and sufficient notice of the matters set forth in said notices to all persons entitled to receive notice, and fully satisfy the requirements of due process, Fed. R. Civ. P. 23, and all other applicable laws and rules;
7. Require any Class Member who desires to request exclusion from the Class to submit a request for exclusion by the time and in the manner set forth in the Notice, and to provide the information required in the Notice;
8. Schedule a hearing to be held by the Court ("Fairness Hearing") on a date at least 120 days after entry of the Preliminary Approval Order in order to determine:



- (a) whether the Settlement should be approved as fair, reasonable, and adequate to the Class;
  - (b) whether a final judgment should be entered that is in substance materially the same as Exhibit A attached hereto (“Final Judgment Order”);
  - (c) whether the Class Representatives’ proposed Plan of Distribution attached as Exhibit E should be approved as fair, reasonable, and adequate to the Class; and
  - (d) any other matters that may be brought before the Court in connection with the Settlement.
9. Provide that any objections to the Settlement and the Plan of Distribution shall be heard, and any papers submitted in support of said objections shall be received and considered by the Court at the Fairness Hearing (unless, in its discretion, the Court shall direct otherwise), only if, on or before a date to be specified in the Notice, persons making objections give notice of their intention to appear, and file with the Court and submit copies of such papers as they propose to submit in the manner described in the Notice;
10. Provide that, in order to share in the Net Settlement Fund, a Class Member must execute and submit a valid Claim Form in the manner provided in the Notice and within such time as is stated in the Notice;

11. Provide that a Claim Form filed by mail shall be deemed to have been submitted when legibly postmarked by the U.S. Postal Service, if mailed by first-class mail, registered mail, or certified mail, postage prepaid, addressed in accordance with the instructions given in the Claim Form, and that all other Claim Forms shall be deemed to have been submitted at the time they are actually received by the Claims Administrator;
12. Provide that, upon entry of the Final Judgment Order, the Class Representatives and all Class Members, whether or not they submit a timely Claim, shall be permanently enjoined and barred from asserting any claims (except through the Claim procedures) against Defendant and Defendant's Releasees arising from the Released Plaintiffs' Claims, and that the Class Representatives and all Class Members conclusively shall be deemed to have released any and all such Released Plaintiffs' Claims;
13. Provide that, upon the Effective Date, only persons who are Authorized Claimants shall have rights in the distribution of the Net Settlement Fund; and
14. Provide that the Fairness Hearing may, from time to time and without further notice to Class Members, be continued or adjourned by order of the Court.

**C. Judgment To Be Entered By The Court Approving The Settlement**

At the Fairness Hearing, the Class Representatives and Class Counsel shall ask the Court to enter the order described in this section. Upon approval by the Court of the Settlement, a final judgment shall be entered by the Court, pursuant to an Order for Final Judgment (“Final Judgment Order”) that is in substance materially the same as Exhibit A attached hereto, which shall specifically include provisions which:

1. Approve the Settlement set forth in this Stipulation as fair, reasonable, and adequate to the Class, and direct consummation of the Settlement in accordance with the terms and provisions of this Stipulation;
2. Fully and finally dismiss the Action with prejudice, and without costs (except as may be provided herein) to any Party as against any other;
3. Provide that the Class Representatives and all Class Members shall be deemed to have, and by operation of law and of the judgment shall have, fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged all Released Plaintiffs’ Claims against Defendant and Defendant’s Releasees, and shall forever be barred and enjoined from prosecuting any or all of the Released Plaintiffs’ Claims against Defendant or any of the Defendant’s Releasees;
4. Notwithstanding ¶(C)(3) above, nothing in the Final Judgment Order shall bar any action by any of the Parties to enforce or effectuate the terms of this Stipulation or the Final Judgment Order nor shall bar

Plaintiffs from filing additional motions for attorneys' fees and expenses incurred from October 1, 2023, from the settlement fund;

5. Approve the Plan of Distribution and order that distributions be made to Authorized Claimants only in accordance with that plan; and
6. Reserve jurisdiction over: (a) implementation of the Settlement and any distribution to Authorized Claimants, pursuant to further orders of the Court; (b) disposition of the Settlement Fund; (c) the Action, until the Effective Date, and until each and every act agreed to be performed by the Parties shall have been performed pursuant to this Stipulation; and (d) the Parties, for the purpose of enforcing and administering this Stipulation.

**D. Use Of The Settlement Fund And Notice And Settlement Administration**

1. The Settlement Fund shall be the sum of \$3,200,000. Within twenty (20) business days after the Court enters the Preliminary Approval Order, Defendant shall deposit into an escrow account established at Huntington National Bank or another FDIC-insured financial institution, (the "Escrow Account"), the sum of \$500,000 ("Advance Notice Costs").
2. Within twenty (20) business days after the Court enters the Final Judgment Order, Defendant shall deposit an additional \$2,700,000 into the Escrow Account.

3. Defendant or Defendant's Releasees shall not be liable to pay any amount except as set forth in ¶IV(D)(1) and (2) of this Stipulation.
4. The Settlement Fund shall be deemed to be in the custody of the Court, and shall remain subject to the jurisdiction of the Court until such time as the entirety of the Settlement Fund is distributed as provided in this ¶IV(D), or returned to Defendant as provided in ¶IV(D)(9) of this Stipulation.
5. Up until the Effective Date, the Escrow Account shall be maintained at Huntington National Bank ("Escrow Agent"), on behalf of the Class Representatives, Class Counsel, the Class, and Defendant. At the direction of Class Counsel and the Defendant, the Escrow Agent shall cause the Settlement Fund to be invested exclusively in United States Treasury Bills (or a mutual fund invested solely in such instruments), except that any cash balances up to the amount that is insured by the FDIC may be deposited in any account that is fully insured by the FDIC. The Escrow Agent shall cause all interest on the Escrow Account to be collected and reinvested. In the event that the yield on United States Treasury Bills is negative, in lieu of purchasing such Treasury Bills, all or any portion of the funds held by the Escrow Agent may be deposited in any account that is fully insured by the FDIC or backed by the full faith and credit of the United States. Additionally, if short-term placement of the funds is necessary, all or

any portion of the funds held by the Escrow Agent may be deposited in any account that is fully insured by the FDIC or backed by the full faith and credit of the United States. All risks related to the investment of the Settlement Fund in accordance with the guidelines set forth in this paragraph shall be borne by the Settlement Fund.

6. Before the Effective Date, no disbursements shall be made out of the Settlement Fund except: (a) upon order of the Court; or (b) as provided in this Stipulation.
7. Prior to the Effective Date, the Escrow Agent may pay from the Settlement Fund Administrative Expenses up to the maximum total amount of the Advance Notice Costs of \$500,000. After the Effective Date the Escrow Agent may pay from the Settlement Fund any additional, unpaid Administrative Expenses without further approval from Defendant or order of the Court. Defendant and Defendant's Releasees are not responsible for, and shall not be liable for, any Administrative Expenses.
8. If the Effective Date does not occur, or if this Stipulation is voided, terminated, or cancelled for any reason, the Class Representatives and Class Counsel shall have no obligation to repay any of the Administrative Expenses that have been paid or incurred in accordance with ¶IV(D)(7). Any amounts remaining in the Settlement Fund after payment of Administrative Expenses paid or incurred in

accordance with ¶IV(D)(7), including all interest earned on the Settlement Fund net of any Taxes, shall be returned to Defendant. No other person or entity shall have any further claim whatsoever to such amounts.

9. This Settlement is not a reversionary settlement. As of the Effective Date, all rights of Defendant in or to the Settlement Fund shall be extinguished.

10. The Settlement Fund is intended to be a Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-1. Class Counsel, as administrator of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be solely responsible for filing or causing to be filed all informational and other tax returns as may be necessary or appropriate (including, without limitation, the returns described in Treasury Regulation § 1.468B-2(k)) for the Settlement Fund. Class Counsel shall also be responsible for causing payment to be made from the Settlement Fund of any Taxes owed with respect to the Settlement Fund. Defendant and Defendant's Releasees shall not have any liability or responsibility for any such Taxes. Upon written request, Defendant will provide to Class Counsel the statement described in Treasury Regulation § 1.468B-3(e). Class Counsel, as administrator of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall timely make such

elections as are necessary or advisable to carry out this paragraph, including, as necessary, making a “relation back election,” as described in Treasury Regulation § 1.468B-1(j), to cause the Qualified Settlement Fund to come into existence at the earliest allowable date, and shall take or cause to be taken all actions as may be necessary or appropriate in connection therewith.

11. All Taxes shall be paid out of the Settlement Fund and shall be timely paid pursuant to the disbursement instructions to be set forth in the Escrow Agreement, and without further order of the Court. Any tax returns prepared for the Settlement Fund (as well as the election set forth therein) shall be consistent with the previous paragraph and in all events shall reflect that all Taxes on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein. Defendant and Defendant’s Releasees shall have no responsibility or liability for the Taxes or for the acts or omissions of Class Counsel or their agents with respect to the payment of Taxes.
12. The Settlement Fund shall be used to pay: (a) any Taxes; (b) any Administrative Expenses incurred in accordance with ¶IV(D)(7); (c) any Litigation Expenses awarded by the Court; (d) any Claimant Navigation Support; and (e) an allowance for additional attorneys’ fees to be awarded by the Court upon motion or motions filed by Plaintiffs as set forth below. The balance remaining in the Settlement



Fund, referred to hereafter as the “Net Settlement Fund,” shall be distributed to Authorized Claimants in accordance with the Plan of Distribution. If any amount remains after distribution to Authorized Claimants, it will be paid as described in ¶IV(D)(19) herein.

13. Class Counsel may provide Claimant Navigation Support. Up to \$150,000 of the Settlement Fund may be used for Claimant Navigation Support and shall be paid by the Escrow Agent in advance upon receipt of a proposal for Claimant Navigation Support from Class Counsel.
14. The Claims Administrator shall administer the Settlement, including but not limited to the process of receiving, reviewing, and approving or denying Claims, under Class Counsel’s supervision and subject to the jurisdiction of the Court. Class Counsel shall participate in the review and determination of certain Claims, as described in the Plan of Distribution, and reserve the right to undertake other portions of the Claims review process. Class Counsel shall be responsible for supervising the administration of the Settlement and the disbursement of the Net Settlement Fund, subject to Court approval. Class Counsel shall have the right, but not the obligation, to waive what they deem to be formal or technical defects in any Claim Forms submitted, in the interests of achieving substantial justice.

15. The Parties intend to propose the Plan of Distribution that is detailed in Exhibit E. The Plan of Distribution is not a necessary term of the Settlement or of this Stipulation, and it is not a condition of the Settlement or of this Stipulation that any particular Plan of Distribution be approved by the Court. The Class Representatives and Class Counsel may not cancel or terminate the Settlement (or this Stipulation) based on this Court's or any appellate court's ruling with respect to the Plan of Distribution or any other plan of distribution in this Action.
16. For purposes of determining the extent, if any, to which a Class Member shall be entitled to be treated as an Authorized Claimant, the following conditions shall apply:
  - (a) All Class Members who wish to receive a compensatory education award in connection with the Settlement shall be required to submit to the Claims Administrator a completed Claim Form substantially in the form of Exhibit D attached hereto, being postmarked or submitted electronically by the Bar Date. All Claim Forms and must be signed under penalty of perjury and supported by such documents as are specified in the Claim Form;

- (b) Any Class Member who fails to submit a timely Claim Form may be forever barred from receiving any distribution from the Net Settlement Fund or payment or services pursuant to this Stipulation (unless by order of the Court such Class Member's Claim Form is accepted), but shall in all other respects be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Final Judgment Order;
- (c) Each Claim Form shall be submitted to and reviewed by the Claims Administrator and/or Class Counsel, who shall determine, in accordance with this Stipulation and the Plan of Distribution, the extent, if any, to which a Claim shall be allowed, subject to review pursuant to subparagraph (e) below as necessary;
- (d) Claim Forms that do not meet the submission requirements may be rejected. After consulting with Class Counsel and Defendant if desired, the Claims Administrator shall notify, in a timely fashion and in writing, all Claimants whose Claim the Claims Administrator proposes to reject in whole or in part, setting forth the reasons therefor, and shall indicate in such notice that the Claimant whose Claim is to be

rejected has the right to a review pursuant to subparagraph (e) below if the Claimant so desires and complies with the requirements of subparagraph (e); and

- (e) If any Claimant whose Claim has been rejected in whole or in part desires to contest such rejection, the Claimant must, within twenty (20) days after the date of issuance of the notice required in subparagraph (d) above, serve upon the Claims Administrator a notice and statement of reasons indicating the Claimant's grounds for contesting the rejection along with any supporting documentation, and requesting a review thereof. If a dispute concerning a Claim cannot be otherwise resolved, the Claims Administrator shall consult with Class Counsel and Defendant if desired.

17. Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to any Claim submitted by the Claimant, and the Claim will be subject to investigation and discovery under the Federal Rules of Civil Procedure; provided, however, that such investigation and discovery shall be limited to that Claimant's status as a Class Member and the validity and determination of the Claimant's Claim. No discovery shall be allowed on the merits of this Action or

of the Settlement in connection with the processing of Claims. All Class Members waive trial by jury (to the extent any such right may exist) and any right of appeal or review solely with respect to determination of a Claim.

18. Class Counsel will apply to the Court, with notice to Defendant's counsel, for Class Distribution Orders: (a) approving the determinations concerning the acceptance and rejection of Claims; (b) approving payment of any incurred but unpaid Administrative Expenses; and (c) if the Effective Date has occurred, directing distribution of the Net Settlement Fund to Authorized Claimants in accordance with the Plan of Distribution.
19. To the extent any monies remain in the Net Settlement Fund more than six months after distributions made pursuant to the Plan of Distribution and in accordance with the Class Distribution Orders, the remaining balance shall be contributed to The Arc Minnesota, the Autism Society of Minnesota, and the Multicultural Autism Action Network, to be split equally between them, to be used to provide services to individuals with disabilities, as set forth in the Plan of Distribution and approved by the Court.
20. Payment or distributions pursuant to the Class Distribution Orders shall be final and conclusive against all Class Members. All Class Members whose Claims are not approved by the Court for distribution

shall be barred from participating in distributions from the Net Settlement Fund, but otherwise shall be bound by all of the terms of this Stipulation and the Settlement, including the Final Judgment Order to be entered in this Action, and will be permanently barred and enjoined from bringing any action against Defendant or Defendant's Releasees with respect to any and all of the Released Plaintiffs' Claims.

21. No person or entity shall have any claim or cause of action against the Class Representatives, Class Counsel, the Claims Administrator, or any other agent designated by Class Counsel arising from distributions made substantially in accordance with the Stipulation, the Plan of Distribution as approved by the Court, or any order of the Court.
22. Defendant and Defendant's Releasees shall have no responsibility for, interest in, or liability whatsoever with respect to the distribution of the Net Settlement Fund, the Plan of Distribution, the determination, administration, or calculation of Claims, the payment or withholding of Taxes, the Escrow Account, the Escrow Agent, Administrative Expenses, or any losses incurred in connection with the foregoing. No person, including the Class Representatives, Class Members, and Class Counsel, shall have any claim of any kind against Defendant or

Defendant's Releasees with respect to the matters set forth in this paragraph.

**E. The Fee and Expense Application(s)**

1. From time to time, Class Counsel may apply to the Court for a collective award of attorneys' fees to be paid from (and out of) the allowance for such fees from the Settlement Fund. Class Counsel also will apply to the Court for reimbursement of Litigation Expenses, which may include a request for service awards to the Class Representatives directly related to their representation of the Class, to be paid from (and out of) the Settlement Fund. Class Counsel warrant that any motion or application that they file requesting an award of attorneys' fees and Litigation Expenses will include within its scope all attorneys and law firms with a financial interest in any such award for the Settlement of the Action. All of the above is the "Fee and Expense Application(s)."
2. Class Counsel have represented that they will not file Fee and Expense Application(s) that collectively seek attorneys' fees such that the sum of: (a) the total attorneys' fees and Litigation Expenses awarded to Plaintiffs (including the amounts already awarded); (b) Administrative Expenses; and (c) Claimant Navigation Support exceeds \$640,000. Defendant reserves the right to object to or oppose all or any portion of the Fee and Expense Application(s). It is agreed

that the allowance or disallowance by the Court of the Fee and Expense Application(s) is not a term or condition of the Settlement set forth in this Stipulation, and any order or proceeding relating thereto, or any appeal from any such order, shall not operate to terminate or cancel this Stipulation.

3. The amount awarded by the Court on the Fee and Expense Application(s) shall be paid from the Settlement Fund within thirty-five (35) business days of the entry of a Court Order awarding any fees and expenses. If the Court authorizes, Class Counsel may allocate amounts awarded to them in the manner they choose.

**F. Conditions of Settlement; Effect of Disapproval, Cancellation and Termination**

1. This Stipulation shall be deemed terminated and cancelled, and shall have no further force and effect whatsoever, if:
  - (a) There is no Effective Date;
  - (b) The Court fails to enter an order preliminarily approving the Settlement, and directing that notice of the Settlement be given, in substance materially the same as ¶IV(B) and Exhibit C hereto, or if such an order is entered, it later is reversed or materially modified, whether on appeal or otherwise; or



- (c) The Court fails to enter the Final Judgment Order as provided for in ¶IV(C), in substance materially the same as Exhibit A hereto, or if such a Final Judgment Order is entered, it later is reversed or materially modified, whether on appeal or otherwise (a reversal or modification of any proposed Plan of Distribution or of any award pursuant to the Fee and Expense Application(s) shall not be deemed a reversal or modification of the material terms of this Stipulation).
- 2. This Stipulation may be terminated by Defendant, in its sole and absolute discretion, by written notice to Class Counsel if any of the following events occurs:
  - (a) More than 270 days passes from the date of execution of the Stipulation, and no Final Judgment Order has been entered by the Court;
  - (b) Any of the Class Representatives excludes themselves from the Class; or
  - (c) More than half of all claims submitted are valid and timely requests for exclusion from the Class. Copies of requests for exclusion shall be simultaneously sent to Class Counsel and Defendant's counsel promptly upon receipt by the Claims Administrator.

Any notice given by Defendant pursuant to subparagraphs (b) and (c) must be given by no later than three (3) days before the Fairness Hearing.

3. In the event that this Stipulation is voided, terminated or cancelled, or fails to become effective for any reason whatsoever, then within fifteen (15) business days after written notice is sent by Defendant to the Escrow Agent and Class Counsel, the Escrow Agent shall cause the Settlement Fund and all interest earned thereon (subject to the expiration of any time deposit not to exceed 90 days) to be refunded to the Defendant, less any Administrative Expenses paid or incurred in accordance with the terms of IV(D)(8) of this Stipulation. In such event, the Parties shall be deemed to have reverted to their respective statuses as of the date and time immediately prior to the execution of this Stipulation, and they shall proceed in all respects as if this Stipulation, its exhibits, and any related agreements or orders, had never been executed. In such event, the Parties jointly will seek vacation of any order entered or actions taken in connection with this Stipulation.

**G. Data Practices**

1. All Education Data relating to Class members or Potential Members of the Class and their Guardian or Parents that the Claims Administrator, Claimant Navigation Support, Class Counsel, or any

other agents on behalf their behalf receive from MDE or other education agencies are subject to the privacy and confidentiality provisions of federal and state statutes, rules, and regulations including, but not limited the Family Educational Rights and Privacy Act, (“FERPA”), 20 U.S.C. § 1232g *et. seq.* and 34 C.F.R. Part 99, and Minnesota Government Data Practices Act, (“MGDPA”) Minn. Stat. ch. 13.

2. The Claims Administrator, Claimant Navigation Support, Class Counsel, or their agents agree to abide by the provisions of FERPA, the MGDPA, and any and all other applicable state and federal laws governing the data received from MDE and local school districts pursuant to this stipulation and Court Orders, and all data created, collected, received, stored, used, maintained, or disseminated under this Class Action.
3. The Claims Administrator, Claimant Navigation Support, Class Counsel, or their agents, agree to use the data it receives from MDE and local education agencies only to the extent necessary to administer the Class action pursuant to and in compliance with this stipulation, Court Order and applicable state and federal law. The Claims Administrator and Claimant Navigation Support will not use the individual-level student data for any other purpose. This restriction does not apply to summary data created as a result of the

Class action, so long as the summary data do not potentially personally identify any individual students or their guardian or parent.

4. Education data received under this Class Stipulation may not be duplicated, disseminated, or used by the Claims Administrator, Claimant Navigation Support, Class Counsel, or their agents, for another purpose or program without the express written permission of MDE or the Student or applicable guardian. All copies of data of any type, including any modifications or additions to data from any source that contains information regarding individual students, are subject to the provisions of this Stipulation in the same manner as the original data.
5. The Claims Administrator, Claimant Navigation Support, Class Counsel, and their agents, agree that only those employees, contractors, and agents who need to have access to data provided under this Stipulation because they are conducting work directly related to analysis pursuant to the Stipulation will have access to the data.
6. All employees, contractors, and agents who have access to the data shared under this Class action will comply with all applicable federal and state laws with respect to the data shared under this Stipulation. The Claims Administrator, Claimant Navigation Support, Class Counsel and their agents ensure that all personnel having access to

education data under this Class action have been instructed regarding the governing privacy and data practices laws and best practices; are trained to use the safeguards employed to protect the privacy and integrity of student data shared pursuant to this Stipulation; and are subject to adequate supervision to provide compliance with applicable federal and state data practices laws.

7. The Claims Administrator, Claimant Navigation Support, Class Counsel, and their agents, will use reasonable efforts to store and process the data received from MDE or the local education agencies in such a way that unauthorized persons cannot retrieve the information by means of a computer, remote terminal, or any other means. The Claims Administrator, Claimant Navigation Support, Class Counsel, and their agents will use appropriate safeguards to prevent use or disclosure of private student information by its employees, contractors, and agents including, but not limited to, implementation of administrative, physical, and technical safeguards to reasonably and appropriately protect the privacy and integrity of student data that it creates, receives, maintains, or transmits under this Class Action
8. The Claims Administrator, Claimant Navigation Support, Class Counsel, and their agents, will report any known data security or data privacy incidents to MDE as soon as the incidents become known. For

purposes of this Stipulation, security incident means the unauthorized access, use, disclosure, modification, or destruction of information. Privacy incident means violation of the MGDPA or any other applicable state or federal data practices laws including, but not limited to, improper and/or unauthorized use or disclosure of protected information, and breach of security of information, as defined by Minnesota Statutes, Section 13.055. This report must be made in writing and provided to the original data source as soon as possible after the security or privacy incident is discovered.

9. The Claims Administrator, Claimant Navigation Support, Class Counsel, and their agents, will destroy any education data received from MDE or school districts upon completion, expiration, or termination of the Class Action using a secure method of destruction that prevents inadvertent release of any data contents during or after the destruction process. Summary data and summary analysis that do not potentially identify individual students are not subject to this requirement.

**H. Miscellaneous Provisions**

1. This Stipulation and its exhibits constitute the entire agreement among the Parties hereto, and no representations, warranties or inducements have been made to any Party concerning this Stipulation or its exhibits

other than the representations, warranties, and covenants contained and memorialized in such documents.

2. All of the exhibits attached hereto are hereby incorporated by this reference as though fully set forth herein. Notwithstanding the foregoing, in the event that there exists a conflict or inconsistency between the terms of this Stipulation and the terms of any exhibit attached hereto, the terms of the Stipulation shall prevail.
3. This Stipulation will be executed on behalf of the Plaintiffs by their counsel of record, and on behalf of Defendant by the Commissioner of Education, or a person with delegated authority to bind the agency. All persons executing this Stipulation represent and warrant that they are authorized and empowered to execute this Stipulation on behalf of their stated client(s) or agency, and that the signature each is intended to and does legally bind stated client(s).
4. Class Counsel, on behalf of the Class, are authorized to take all appropriate action required or permitted to be taken by the Class pursuant to this Stipulation to effectuate its terms. Class Counsel also are authorized to enter into any modifications or amendments to this Stipulation on behalf of the Class which such counsel deem appropriate.
5. This Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and

the same instrument. Counsel for the Parties shall exchange among themselves signed counterparts. Signatures may be originals, or facsimile or pdf. copies.

6. This Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties to this Stipulation.
7. This Stipulation may be amended or modified only by a written instrument signed by the Parties or their successors-in-interest.
8. The waiver by one Party of any breach of this Stipulation by any other Party shall not be deemed a waiver, by that Party or by any other Party to this Stipulation, of any other prior or subsequent breach of this Stipulation. The waiver by one Party shall not be deemed a waiver by any other Party.
9. The Parties have entered into this Stipulation solely as a compromise of all claims for the purpose of concluding the disputes between them, and the Stipulation may not be used by any third party against a Party. Further, neither this Stipulation, nor any document referred to herein, nor any action taken to carry out this Stipulation, is, may be construed as, or may be used as, an admission of wrongdoing or liability by any Party, such wrongdoing and liability being expressly denied, and no final adjudication having been made. Pursuant to Fed. R. Evid. 408, entering into or carrying out this Stipulation, the exhibits hereto, and any negotiations or proceedings related thereto, shall not in any event



be construed as, or deemed to be evidence of, an admission or concession by any of the Parties or a waiver of any applicable statute of limitations, and shall not be offered or received into evidence in any action or proceeding against any Party in any court, administrative agency or other tribunal for any purpose whatsoever, other than to support a defense based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense, or to enforce the provisions of this Stipulation or the provisions of any related agreement or exhibit hereto.

10. All terms of this Stipulation and the exhibits hereto shall be governed by and interpreted according to the laws of the State of Minnesota, without regard to conflicts of laws, except to the extent federal law requires that federal law govern.
11. The Parties and their counsel agree to use their best efforts, and to take all reasonable steps necessary, to obtain the entry of the Preliminary Approval Order and the Final Judgment Order, and to effectuate the Settlement set forth in this Stipulation.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Stipulation to be executed, by their duly authorized attorneys, as of the date stated above.

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Date: May 8, 2024

*/s Jason H. Kim*

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Jason H. Kim  
SCHNEIDER WALLACE COTTRELL KONECKY  
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*And*

Date: May 8, 2024

*/s Sonja D. Peterson*

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*Class Counsel*

Date: May 8, 2024

*/s Joe Weiner*

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*Attorneys for Defendant Minnesota  
Department of Education*

Date: May 8, 2024

*s/ Willie Jett, II*

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Willie Jett, II  
Minnesota Department of Education  
400 Stinson BLVD  
Minneapolis, MN 55413  
*Commissioner of Education*

## EXHIBITS

Exhibit A: Final Judgment Order

Exhibit B: Notice of Class Action Determination, Proposed Settlement, and Hearing Thereon

Exhibit C: Preliminary Approval Order

Exhibit D: Claim Form

Exhibit E: Plan of Distribution

# **Exhibit A**

## STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Stipulation” or “Settlement”) is made as of March 29, 2024, by and among the following parties, K.O. and A.C. on behalf of those similarly situated (“Plaintiffs”) and Commissioner Willie L. Jett, II, as hereinafter defined: (1) the Class Representatives, on behalf of themselves and the Class, by and through Class Counsel in this Action; and (2) Willie L. Jett, II, in his capacity as the Commissioner of the Minnesota Department of Education, State of Minnesota (“Defendant”), by and through his attorneys in this Action. The Class Representatives and Defendant are the “Parties.”

### **I. DESCRIPTION OF THE ACTION**

Class Representatives filed this Action, titled: *K.O., by and through his parent and guardian J.O., on behalf of a class of those similarly situated v Willie L. Jett, II, in his capacity as the Commissioner of the Minnesota Department of Education, State of Minnesota*, Civil No. 21-CV-01837 (PJS/DJF), on August 12, 2021, in the United States District Court for the District of Minnesota. Class Representatives contend that a Minnesota statute, Minn. Stat. § 125A.03(b), violated the Individuals with Disabilities Education Act (“IDEA”) by discontinuing special education services to students with disabilities on July 1 after their 21<sup>st</sup> birthday if they have not received their high school diploma. On September 29, 2022, pursuant to a stipulation of the Parties, the Court certified the class. In January 2023, the Parties made cross-motions for summary judgment.

While the Parties’ summary judgment motions were pending, the Minnesota Legislature amended Minn. Stat. § 125A.03(b) to provide that students with disabilities without a high school diploma are entitled to receive special education until their 22<sup>nd</sup>

birthday. Act of May 24, 2023, ch. 55, art. 7, secs. 1, 2, 5, 6, and 7 (“Legislative Amendment”). The Legislative Amendment took effect on July 1, 2023. *Id.* The Parties advised the Court on June 2, 2023 that they agreed the Legislative Amendment renders moot the claims of class members who turned or will turn 21 on or after July 1, 2022. Jun 2, 2023 Letter to Court, ECF Doc. No. 68.

On August 25, 2023, the Court issued its order granting the Plaintiffs’ motion for summary judgment and declaring that the version of Minn. Stat. § 125A.03(b) that was in effect prior to July 1, 2023, violated the IDEA in denying special education to students with disabilities who had not received high school diplomas and had not yet reached the age of 22. The Court also ordered the Defendant to provide compensatory education to class members who turned 21 years of age prior to July 1, 2022. The Court Order was not appealed by September 27, 2023. Subsequently, in Fall of 2023, the Parties agreed to defer Defendant’s provision of compensatory education services and other proceedings in this Action until the Court can consider the Settlement described in this Stipulation.

## **II. BENEFITS OF SETTLEMENT TO THE CLASS**

Plaintiffs and their counsel believe the settlement outlined below is fair, reasonable, and offers practical benefits to the class members. The class as certified includes individuals who exited the special education system as many as five years ago. It is impractical and would offer limited benefit to arrange for the re-entry of such individuals into Minnesota’s special education system for a short period of time to receive compensatory education in the form of additional full free appropriate public education (“FAPE”). In lieu of full FAPEs, this settlement provides for flexible reimbursement for a

wide range of education-related expenses, which is more useful relief for students who have exited the formal special education system.

The amount of the settlement fund was set based on arms-length negotiation between counsel for Plaintiffs and counsel for Defendant. It is based on Defendant's expenditures for special education and counsel for Plaintiffs' estimate of the number of class members who are likely to make claims and the amount reasonably necessary to satisfy such claims.

The structure of this settlement is based on settlement of a similar action in Hawaii, although in comparison it has been simplified to avoid administrative complexities that created delay, litigation, and increased costs in Hawaii.

### **III. DEFENDANT'S DENIALS OF WRONGDOING AND REASONS FOR SETTLEMENT**

Defendant asserted numerous defenses and denies liability as alleged in the Action. Nevertheless, Defendant has considered that members of the Class are students who turned 22 within the three years prior to the change in law and will benefit most by receiving compensatory services as soon as possible. Defendant also recognizes that there are risks attendant in any litigation. Defendant has, therefore, determined that it is desirable and beneficial to all Parties that the Action be settled in the manner and upon the terms and conditions set forth in this Stipulation to eliminate the burden, delay, and expense of further protracted litigation, and that the class members will receive the compensatory services as quickly as possible.

#### IV. **TERMS OF THE AGREEMENT**

NOW, THEREFORE, it is hereby stipulated and agreed, by and among the undersigned Parties, that the Action shall be settled, subject to the approval of the Court pursuant to Fed. R. Civ. P. 23(e), upon and subject to the following terms and conditions:

##### A. **Definitions**

1. “Action” means the federal action titled: *K.O., by and through his parent and guardian J.O., on behalf of a class of those similarly situated v Willie L. Jett, II, in his capacity as the Commissioner of the Minnesota Department of Education, State of Minnesota*, Civil No. 21-CV-01837 (PJS/DJF).
2. “Administrative Expenses” means: (a) the costs, fees and expenses that are incurred by the Claims Administrator in connection with providing notice to the Class and administering the Settlement, including but not limited to the claims process; (b) fees and expenses incurred in connection with the Escrow Account; (c) Taxes; and (d) the out-of-pocket expenses incurred by Class Counsel in connection with determining the amount of, and paying, any Taxes (including, without limitation, expenses of tax attorneys and accountants).
3. “Authorized Claimant” means a person who has been identified from an education agency’s education records as being a Class Member, or a Class Member who submits a Claim Form to the Claims



Administrator that is approved for Compensatory Education Award pursuant to any of the Class Distribution Orders.

4. “Bar Date” means 120 days from the date that the Notice is mailed to Class Members.
5. “Claim” means a submission by a Class Member on the Claim Form and/or Supplemental Claim Form.
6. “Claimant” means a person who submits a Claim Form and/or Supplemental Claim Form.
7. “Claim Period” means the period ending on the Bar Date. Class Members must submit a Claim Form for compensatory education on or before the Bar Date.
8. “Claimant Navigation Support” means resources and support for Authorized Claimants and their families to assist with utilizing distributed funds in alignment with the Plan of Distribution and to assist families with understanding the impact of any distributions on benefits.
9. “Claims Administrator” means Continental DataLogix LLC, 1684 S. Broad Street, Suite 140, Lansdale, PA 19446.
10. “Class” means all children: (a) who are receiving or received special instruction and services pursuant to the Individuals with Disabilities Education Act and Minnesota Special Instruction laws from a local educational agency in Minnesota, (b) who became 21 years old after

July 1, 2019, or will become 21 during the pendency of this action, (c) whose special instruction and services ended, or will end, on July 1 after their 21<sup>st</sup> birthday pursuant to Minn. Stat. § 125A.03(b), (d) whose special instruction and services ended, or will end, before they complete the graduation requirements to receive a regular high school diploma as defined in 34 C.F.R. 300.102(a)(3)(iv). On June 2, 2023, the Parties stipulated that the 2023 Legislative Amendment rendered moot the claims of class members who turned or will turn 21 on or after July 1, 2022.

11. “Class Counsel” means Mid-Minnesota Legal Aid/Minnesota Disability Law Center and the Schneider Wallace Cottrell Konecky firm.
12. “Class Distribution Orders” means orders entered by the Court authorizing and directing that the Net Settlement Fund be distributed, in whole or in part, to Authorized Claimants.
13. “Class Member(s)” means a member of the Class as ordered by the Court and stipulated by the Parties.
14. “Class Representatives” means K.O (suing through his parent J.O.) and A.C. (suing through her parents D.C. and J.C.) as identified in the Class Certification and as stipulated by the Parties.
15. “Court” means the United States District Court for the District of Minnesota.

16. “Defendant” means Willie L. Jett, II, in his capacity as the Commissioner of the Minnesota Department of Education, State of Minnesota, or his successor.
17. “Defendant’s Releasees” means the State of Minnesota, the Minnesota Department of Education, local education agencies, and their officers, employees, agents, representatives, attorneys, and insurers, predecessors, successors, and assigns.
18. “Education Records” are education records on students whether located at the local education agency or the Minnesota Department of Education.
19. “Effective Date” means the date on which the Court’s judgment approving this Stipulation, in substance materially the same as the form attached hereto as Exhibit A, becomes Final.
20. “Fairness Hearing” means the hearing or hearings before the Court to determine whether the Final Judgment Order should be entered and to consider related matters.
21. “Final,” with respect to the judgment or any other court order, means:
  - (a) if no appeal is filed, the expiration date of the time provided for filing or noticing any appeal under the Federal Rules of Appellate Procedure; or (b) if there is an appeal from the judgment or order,
    - (i) the date of final dismissal of all such appeals, or the final dismissal of any proceeding on certiorari or otherwise, or (ii) the date the

judgment or order is finally affirmed on an appeal, the expiration of the time to file a petition for a writ of certiorari or other form of review, or the denial of a writ of certiorari or other form of review, and, if certiorari or other form of review is granted, the date of final affirmance following review pursuant to that grant. However, any appeal or proceeding seeking subsequent judicial review pertaining solely to an order issued with respect to (a) the Fee and Expense Application (as hereinafter defined), or (b) the Plan of Distribution of the Net Settlement Fund (as submitted or subsequently modified), shall not in any way delay or preclude a judgment from becoming Final.

22. “Final Judgment Order” means the Order for Final Judgment approving the Settlement that is in substance materially the same as Exhibit A to this Stipulation.
23. “Litigation Expenses” means costs and expenses incurred by the Class Representatives or Class Counsel in connection with commencing, prosecuting and settling the Action, including any service awards for the Class Representatives directly related to their representation of the Class.
24. “Notice” means Notice of Class Action Determination, Proposed Settlement, and Hearing Thereon, substantially in the form attached hereto as Exhibit B, which is to be mailed to Class Members as

directed by the Court and made available for download on a website to be maintained by the Claims Administrator.

25. “Plaintiffs’ Releasing Parties” means the Class Representatives and Class Members, where applicable their parents or guardians, and any person or entity that has or claims to have rights through the Class Representatives or Class Members.
26. “Potential Member of Class” means all students (1) who were enrolled and received special instruction and services pursuant to the Individuals with Disabilities Education Act and Minnesota Special Instruction laws from a local educational agency in Minnesota, (b) who became 21 years of age between July 1, 2019 and July 1, 2022, (c) whose special instruction and services ended before their 22<sup>nd</sup> birthday pursuant to pre-2023 Minnesota law Minn. Stat. § 125A.03(b).
27. “Preliminary Approval Order” means an order granting preliminary approval of the Settlement that is in substance materially the same as Exhibit C to this Stipulation.
28. “Released Plaintiffs’ Claims” means any and all claims, liabilities, demands, actions, and causes of action of every kind and nature whatsoever, whether existing or not existing, asserted or unasserted, liquidated or unliquidated, absolute or contingent, direct or derivative,

in law or in equity, arising out of federal, state, foreign, or common law, including Unknown Claims, that the Plaintiffs' Releasing Parties have ever had, presently have, or may in the future have or claim to have, against Defendant or any of Defendant's Releasees by reason of any matter, event, cause or thing whatsoever arising out of, based in whole or in part upon, relating to, or existing by reason of the class members' rights under IDEA.

29. "Settlement" means the settlement between the Class Representatives and Defendant on the terms and conditions set forth in this Stipulation.
30. "Settlement Fund" means the sum of \$3,200,000 to be paid by Defendant as specified in ¶ IV(D) of this Stipulation.
31. "Taxes" means: (a) all federal, state and/or local taxes of any kind (including any interest or penalties thereon) on any income earned by the Settlement Fund; and (b) all taxes imposed on payments by the Settlement Fund, including withholding taxes.
32. "Unknown Claims" means any Released Plaintiffs' Claims which the Class Representatives or any other Class Member does not know or suspect to exist in his, her, or its favor at the time of the release of such claims which, if known by him, her, or it might have affected his, her, or its decision(s) with respect to this Settlement. The Parties stipulate and agree that, upon the Effective Date of the Settlement, the Class Representatives shall expressly waive, and each of the Class Members

who has not opted out shall be deemed to have waived, and by operation of the judgment shall have expressly waived, any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law. The Class Representatives acknowledge, and each of the other Class Members shall be deemed by operation of law to have acknowledged, that the foregoing waiver was separately bargained for and is a key element of the Settlement. The Class Representatives further acknowledge, and all Class Members shall be deemed by operation of the Final Judgment Order to have acknowledged, that they are aware that they may hereafter discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matters of the Released Plaintiffs' Claims, but that it is their intention upon the Effective Date, to have, fully, finally, and forever settled and released any and all claims within the scope of the Released Plaintiffs' Claims, whether known or unknown, suspected or unsuspected, contingent or noncontingent, whether or not concealed or hidden, which now exist, may hereafter exist or may heretofore have existed, without regard to the subsequent discovery or existence of such different or additional facts. All of the foregoing is the definition of "Unknown Claims."

**B. The Court's Order Preliminarily Approving The Settlement**

As soon as practicable after the execution of this Stipulation, Class Counsel shall apply to the Court for entry of an order that is in substance materially the same as the proposed Preliminary Approval Order attached hereto as Exhibit C, which shall specifically include provisions which:

1. Preliminarily approve the Settlement as embodied in this Stipulation as being fair, reasonable, and adequate to the Class;
2. Appoint the firm of Continental DataLogix LLC to administer the notice procedure and the processing of claims ("Claims Administrator"), under the supervision of Class Counsel;
3. Approve (a) a Notice that is in substance materially the same as Exhibit B attached hereto for transmission to Class Members in order to provide notice of the hearing for approval of the Settlement, (b) a Claim Form that is in substance materially the same as Exhibit D attached hereto that must be submitted on or before the Bar Date.
4. Provide and Order the Defendant and local education agencies to disclose education records on Potential Members of the Class to the Class Administrator as follows:
  - (a) The Minnesota State Department of Education ("MDE") is hereby ordered to disclose to the Claims Administrator the following data on Potential Members



of the Class from the MDE Minnesota Automated Reporting Student System (“MARSS”) reporting system:

- (1) Student’s Name;
- (2) Student’s Birthdate;
- (3) Student’s last status end date; and
- (4) Name of last School District enrolled and the last district’s identifier

MDE is exempt from providing notice to the eligible students or guardians of this Court Order in advance of disclosing this requested information to the Claims Administrator under 34 C.F.R. § 99.31(a)(9).

- (b) Local Education Agencies in Minnesota are hereby ordered to disclose contact information on Potential Members of the Class or their parents or guardians to the Claims Administrator upon request by the Claims Administrator. Minn. Stat. § 13.32, subd. 3(b) and 34 C.F.R. § 99.31(a)(9)(i).

- (c) Local Education Agencies in Minnesota are hereby ordered to disclose educational data necessary for the Claims Administrator to determine eligibility of Potential Class Members or compensatory education

services to Class Members, upon request by the Claims Administrator. Minn. Stat. § 13.32, subd. 3(b) and 34 C.F.R. § 99.31(a)(9)(i).

5. Direct that the Claims Administrator mail the Notice and Claim Form to Potential Class Members who have been identified through Defendant's records, as set forth in the Preliminary Approval Order, and make the Notice and Claim Form available to Potential Class Members on a settlement website or by calling a toll-free number;
6. Find that mailing and distribution pursuant to ¶¶IV(B)(3) and (4) above constitute the best notice practicable under the circumstances, constitute due and sufficient notice of the matters set forth in said notices to all persons entitled to receive notice, and fully satisfy the requirements of due process, Fed. R. Civ. P. 23, and all other applicable laws and rules;
7. Require any Class Member who desires to request exclusion from the Class to submit a request for exclusion by the time and in the manner set forth in the Notice, and to provide the information required in the Notice;
8. Schedule a hearing to be held by the Court ("Fairness Hearing") on a date at least 120 days after entry of the Preliminary Approval Order in order to determine:

- (a) whether the Settlement should be approved as fair, reasonable, and adequate to the Class;
  - (b) whether a final judgment should be entered that is in substance materially the same as Exhibit A attached hereto (“Final Judgment Order”);
  - (c) whether the Class Representatives’ proposed Plan of Distribution attached as Exhibit E should be approved as fair, reasonable, and adequate to the Class; and
  - (d) any other matters that may be brought before the Court in connection with the Settlement.
9. Provide that any objections to the Settlement and the Plan of Distribution shall be heard, and any papers submitted in support of said objections shall be received and considered by the Court at the Fairness Hearing (unless, in its discretion, the Court shall direct otherwise), only if, on or before a date to be specified in the Notice, persons making objections give notice of their intention to appear, and file with the Court and submit copies of such papers as they propose to submit in the manner described in the Notice;
10. Provide that, in order to share in the Net Settlement Fund, a Class Member must execute and submit a valid Claim Form in the manner provided in the Notice and within such time as is stated in the Notice;

11. Provide that a Claim Form filed by mail shall be deemed to have been submitted when legibly postmarked by the U.S. Postal Service, if mailed by first-class mail, registered mail, or certified mail, postage prepaid, addressed in accordance with the instructions given in the Claim Form, and that all other Claim Forms shall be deemed to have been submitted at the time they are actually received by the Claims Administrator;
12. Provide that, upon entry of the Final Judgment Order, the Class Representatives and all Class Members, whether or not they submit a timely Claim, shall be permanently enjoined and barred from asserting any claims (except through the Claim procedures) against Defendant and Defendant's Releasees arising from the Released Plaintiffs' Claims, and that the Class Representatives and all Class Members conclusively shall be deemed to have released any and all such Released Plaintiffs' Claims;
13. Provide that, upon the Effective Date, only persons who are Authorized Claimants shall have rights in the distribution of the Net Settlement Fund; and
14. Provide that the Fairness Hearing may, from time to time and without further notice to Class Members, be continued or adjourned by order of the Court.

**C. Judgment To Be Entered By The Court Approving The Settlement**

At the Fairness Hearing, the Class Representatives and Class Counsel shall ask the Court to enter the order described in this section. Upon approval by the Court of the Settlement, a final judgment shall be entered by the Court, pursuant to an Order for Final Judgment (“Final Judgment Order”) that is in substance materially the same as Exhibit A attached hereto, which shall specifically include provisions which:

1. Approve the Settlement set forth in this Stipulation as fair, reasonable, and adequate to the Class, and direct consummation of the Settlement in accordance with the terms and provisions of this Stipulation;
2. Fully and finally dismiss the Action with prejudice, and without costs (except as may be provided herein) to any Party as against any other;
3. Provide that the Class Representatives and all Class Members shall be deemed to have, and by operation of law and of the judgment shall have, fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged all Released Plaintiffs’ Claims against Defendant and Defendant’s Releasees, and shall forever be barred and enjoined from prosecuting any or all of the Released Plaintiffs’ Claims against Defendant or any of the Defendant’s Releasees;
4. Notwithstanding ¶(C)(3) above, nothing in the Final Judgment Order shall bar any action by any of the Parties to enforce or effectuate the terms of this Stipulation or the Final Judgment Order nor shall bar

Plaintiffs from filing additional motions for attorneys' fees and expenses incurred from October 1, 2023, from the settlement fund;

5. Approve the Plan of Distribution and order that distributions be made to Authorized Claimants only in accordance with that plan; and
6. Reserve jurisdiction over: (a) implementation of the Settlement and any distribution to Authorized Claimants, pursuant to further orders of the Court; (b) disposition of the Settlement Fund; (c) the Action, until the Effective Date, and until each and every act agreed to be performed by the Parties shall have been performed pursuant to this Stipulation; and (d) the Parties, for the purpose of enforcing and administering this Stipulation.

**D. Use Of The Settlement Fund And Notice And Settlement Administration**

1. The Settlement Fund shall be the sum of \$3,200,000. Within twenty (20) business days after the Court enters the Preliminary Approval Order, Defendant shall deposit into an escrow account established at Huntington National Bank or another FDIC-insured financial institution, (the "Escrow Account"), the sum of \$500,000 ("Advance Notice Costs").
2. Within twenty (20) business days after the Court enters the Final Judgment Order, Defendant shall deposit an additional \$2,700,000 into the Escrow Account.

3. Defendant or Defendant's Releasees shall not be liable to pay any amount except as set forth in ¶IV(D)(1) and (2) of this Stipulation.
4. The Settlement Fund shall be deemed to be in the custody of the Court, and shall remain subject to the jurisdiction of the Court until such time as the entirety of the Settlement Fund is distributed as provided in this ¶IV(D), or returned to Defendant as provided in ¶IV(D)(9) of this Stipulation.
5. Up until the Effective Date, the Escrow Account shall be maintained at Huntington National Bank ("Escrow Agent"), on behalf of the Class Representatives, Class Counsel, the Class, and Defendant. At the direction of Class Counsel and the Defendant, the Escrow Agent shall cause the Settlement Fund to be invested exclusively in United States Treasury Bills (or a mutual fund invested solely in such instruments), except that any cash balances up to the amount that is insured by the FDIC may be deposited in any account that is fully insured by the FDIC. The Escrow Agent shall cause all interest on the Escrow Account to be collected and reinvested. In the event that the yield on United States Treasury Bills is negative, in lieu of purchasing such Treasury Bills, all or any portion of the funds held by the Escrow Agent may be deposited in any account that is fully insured by the FDIC or backed by the full faith and credit of the United States. Additionally, if short-term placement of the funds is necessary,

all or any portion of the funds held by the Escrow Agent may be deposited in any account that is fully insured by the FDIC or backed by the full faith and credit of the United States. All risks related to the investment of the Settlement Fund in accordance with the guidelines set forth in this paragraph shall be borne by the Settlement Fund.

6. Before the Effective Date, no disbursements shall be made out of the Settlement Fund except: (a) upon order of the Court; or (b) as provided in this Stipulation.
7. Prior to the Effective Date, the Escrow Agent may pay from the Settlement Fund Administrative Expenses up to the maximum total amount of the Advance Notice Costs of \$500,000. After the Effective Date the Escrow Agent may pay from the Settlement Fund any additional, unpaid Administrative Expenses without further approval from Defendant or order of the Court. Defendant and Defendant's Releasees are not responsible for, and shall not be liable for, any Administrative Expenses.
8. If the Effective Date does not occur, or if this Stipulation is voided, terminated or cancelled for any reason, the Class Representatives and Class Counsel shall have no obligation to repay any of the Administrative Expenses that have been paid or incurred in accordance with ¶IV(D)(7). Any amounts remaining in the Settlement Fund after payment of Administrative Expenses paid or incurred in



accordance with ¶IV(D)(7), including all interest earned on the Settlement Fund net of any Taxes, shall be returned to Defendant. No other person or entity shall have any further claim whatsoever to such amounts.

9. This Settlement is not a reversionary settlement. As of the Effective Date, all rights of Defendant in or to the Settlement Fund shall be extinguished.
10. The Settlement Fund is intended to be a Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-1. Class Counsel, as administrator of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be solely responsible for filing or causing to be filed all informational and other tax returns as may be necessary or appropriate (including, without limitation, the returns described in Treasury Regulation § 1.468B-2(k)) for the Settlement Fund. Class Counsel shall also be responsible for causing payment to be made from the Settlement Fund of any Taxes owed with respect to the Settlement Fund. Defendant and Defendant's Releasees shall not have any liability or responsibility for any such Taxes. Upon written request, Defendant will provide to Class Counsel the statement described in Treasury Regulation § 1.468B-3(e). Class Counsel, as administrator of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall timely make such

elections as are necessary or advisable to carry out this paragraph, including, as necessary, making a “relation back election,” as described in Treasury Regulation § 1.468B-1(j), to cause the Qualified Settlement Fund to come into existence at the earliest allowable date, and shall take or cause to be taken all actions as may be necessary or appropriate in connection therewith.

11. All Taxes shall be paid out of the Settlement Fund, and shall be timely paid pursuant to the disbursement instructions to be set forth in the Escrow Agreement, and without further order of the Court. Any tax returns prepared for the Settlement Fund (as well as the election set forth therein) shall be consistent with the previous paragraph and in all events shall reflect that all Taxes on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein. Defendant and Defendant’s Releasees shall have no responsibility or liability for the Taxes or for the acts or omissions of Class Counsel or their agents with respect to the payment of Taxes.
12. The Settlement Fund shall be used to pay: (a) any Taxes; (b) any Administrative Expenses incurred in accordance with ¶IV(D)(7); (c) any Litigation Expenses awarded by the Court; (d) any Claimant Navigation Support; and (e) an allowance for additional attorneys’ fees to be awarded by the Court upon motion or motions filed by Plaintiffs as set forth below. The balance remaining in the Settlement

Fund, referred to hereafter as the “Net Settlement Fund,” shall be distributed to Authorized Claimants in accordance with the Plan of Distribution. If any amount remains after distribution to Authorized Claimants, it will be paid as described in ¶IV(D)(19) herein.

13. Class Counsel may provide Claimant Navigation Support. Up to \$150,000 of the Settlement Fund may be used for Claimant Navigation Support and shall be paid by the Escrow Agent in advance upon receipt of a proposal for Claimant Navigation Support from Class Counsel.
14. The Claims Administrator shall administer the Settlement, including but not limited to the process of receiving, reviewing and approving or denying Claims, under Class Counsel’s supervision and subject to the jurisdiction of the Court. Class Counsel shall participate in the review and determination of certain Claims, as described in the Plan of Distribution, and reserve the right to undertake other portions of the Claims review process. Class Counsel shall be responsible for supervising the administration of the Settlement and the disbursement of the Net Settlement Fund, subject to Court approval. Class Counsel shall have the right, but not the obligation, to waive what they deem to be formal or technical defects in any Claim Forms submitted, in the interests of achieving substantial justice.

15. The Parties intend to propose the Plan of Distribution that is detailed in Exhibit E. The Plan of Distribution is not a necessary term of the Settlement or of this Stipulation, and it is not a condition of the Settlement or of this Stipulation that any particular Plan of Distribution be approved by the Court. The Class Representatives and Class Counsel may not cancel or terminate the Settlement (or this Stipulation) based on this Court's or any appellate court's ruling with respect to the Plan of Distribution or any other plan of distribution in this Action.
16. For purposes of determining the extent, if any, to which a Class Member shall be entitled to be treated as an Authorized Claimant, the following conditions shall apply:
  - (a) All Class Members who wish to receive a compensatory education award in connection with the Settlement shall be required to submit to the Claims Administrator a completed Claim Form substantially in the form of Exhibit D attached hereto, being postmarked or submitted electronically by the Bar Date. All Claim Forms and must be signed under penalty of perjury and supported by such documents as are specified in the Claim Form;

- (b) Any Class Member who fails to submit a timely Claim Form may be forever barred from receiving any distribution from the Net Settlement Fund or payment or services pursuant to this Stipulation (unless by order of the Court such Class Member's Claim Form is accepted), but shall in all other respects be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Final Judgment Order;
- (c) Each Claim Form shall be submitted to and reviewed by the Claims Administrator and/or Class Counsel, who shall determine, in accordance with this Stipulation and the Plan of Distribution, the extent, if any, to which a Claim shall be allowed, subject to review pursuant to subparagraph (e) below as necessary;
- (d) Claim Forms that do not meet the submission requirements may be rejected. After consulting with Class Counsel and Defendant if desired, the Claims Administrator shall notify, in a timely fashion and in writing, all Claimants whose Claim the Claims Administrator proposes to reject in whole or in part, setting forth the reasons therefor, and shall indicate in such notice that the Claimant whose Claim is to be

rejected has the right to a review pursuant to subparagraph (e) below if the Claimant so desires and complies with the requirements of subparagraph (e); and

- (e) If any Claimant whose Claim has been rejected in whole or in part desires to contest such rejection, the Claimant must, within twenty (20) days after the date of issuance of the notice required in subparagraph (d) above, serve upon the Claims Administrator a notice and statement of reasons indicating the Claimant's grounds for contesting the rejection along with any supporting documentation, and requesting a review thereof. If a dispute concerning a Claim cannot be otherwise resolved, the Claims Administrator shall consult with Class Counsel and Defendant if desired.

17. Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to any Claim submitted by the Claimant, and the Claim will be subject to investigation and discovery under the Federal Rules of Civil Procedure; provided, however, that such investigation and discovery shall be limited to that Claimant's status as a Class Member and the validity and determination of the Claimant's Claim. No discovery shall be allowed on the merits of this Action or

of the Settlement in connection with the processing of Claims. All Class Members waive trial by jury (to the extent any such right may exist) and any right of appeal or review solely with respect to determination of a Claim.

18. Class Counsel will apply to the Court, with notice to Defendant's counsel, for Class Distribution Orders: (a) approving the determinations concerning the acceptance and rejection of Claims; (b) approving payment of any incurred but unpaid Administrative Expenses; and (c) if the Effective Date has occurred, directing distribution of the Net Settlement Fund to Authorized Claimants in accordance with the Plan of Distribution.
19. To the extent any monies remain in the Net Settlement Fund more than six months after distributions made pursuant to the Plan of Distribution and in accordance with the Class Distribution Orders, the remaining balance shall be contributed to The Arc Minnesota, the Autism Society of Minnesota, and the Multicultural Autism Action Network, to be split equally between them, to be used to provide services to individuals with disabilities, as set forth in the Plan of Distribution and approved by the Court.
20. Payment or distributions pursuant to the Class Distribution Orders shall be final and conclusive against all Class Members. All Class Members whose Claims are not approved by the Court for distribution

shall be barred from participating in distributions from the Net Settlement Fund, but otherwise shall be bound by all of the terms of this Stipulation and the Settlement, including the Final Judgment Order to be entered in this Action, and will be permanently barred and enjoined from bringing any action against Defendant or Defendant's Releasees with respect to any and all of the Released Plaintiffs' Claims.

21. No person or entity shall have any claim or cause of action against the Class Representatives, Class Counsel, the Claims Administrator, or any other agent designated by Class Counsel arising from distributions made substantially in accordance with the Stipulation, the Plan of Distribution as approved by the Court, or any order of the Court.
22. Defendant and Defendant's Releasees shall have no responsibility for, interest in, or liability whatsoever with respect to the distribution of the Net Settlement Fund, the Plan of Distribution, the determination, administration, or calculation of Claims, the payment or withholding of Taxes, the Escrow Account, the Escrow Agent, Administrative Expenses, or any losses incurred in connection with the foregoing. No person, including the Class Representatives, Class Members, and Class Counsel, shall have any claim of any kind against Defendant or



Defendant's Releasees with respect to the matters set forth in this paragraph.

**E. The Fee and Expense Application(s)**

1. From time to time, Class Counsel may apply to the Court for a collective award of attorneys' fees to be paid from (and out of) the allowance for such fees from the Settlement Fund. Class Counsel also will apply to the Court for reimbursement of Litigation Expenses, which may include a request for service awards to the Class Representatives directly related to their representation of the Class, to be paid from (and out of) the Settlement Fund. Class Counsel warrant that any motion or application that they file requesting an award of attorneys' fees and Litigation Expenses will include within its scope all attorneys and law firms with a financial interest in any such award for the Settlement of the Action. All of the above is the "Fee and Expense Application(s)."
2. Class Counsel have represented that they will not file Fee and Expense Application(s) that collectively seek attorneys' fees such that the sum of: (a) the total attorneys' fees and Litigation Expenses awarded to Plaintiffs (including the amounts already awarded); (b) Administrative Expenses; and (c) Claimant Navigation Support exceeds \$640,000. Defendant reserves the right to object to or oppose all or any portion of the Fee and Expense Application(s). It is agreed

that the allowance or disallowance by the Court of the Fee and Expense Application(s) is not a term or condition of the Settlement set forth in this Stipulation, and any order or proceeding relating thereto, or any appeal from any such order, shall not operate to terminate or cancel this Stipulation.

3. The amount awarded by the Court on the Fee and Expense Application(s) shall be paid from the Settlement Fund within thirty-five (35) business days of the entry of a Court Order awarding any fees and expenses. If the Court authorizes, Class Counsel may allocate amounts awarded to them in the manner they choose.

**F. Conditions of Settlement; Effect of Disapproval, Cancellation and Termination**

1. This Stipulation shall be deemed terminated and cancelled, and shall have no further force and effect whatsoever, if:
  - (a) There is no Effective Date;
  - (b) The Court fails to enter an order preliminarily approving the Settlement, and directing that notice of the Settlement be given, in substance materially the same as ¶IV(B) and Exhibit C hereto, or if such an order is entered, it later is reversed or materially modified, whether on appeal or otherwise; or

- (c) The Court fails to enter the Final Judgment Order as provided for in ¶IV(C), in substance materially the same as Exhibit A hereto, or if such a Final Judgment Order is entered, it later is reversed or materially modified, whether on appeal or otherwise (a reversal or modification of any proposed Plan of Distribution or of any award pursuant to the Fee and Expense Application(s) shall not be deemed a reversal or modification of the material terms of this Stipulation).
- 2. This Stipulation may be terminated by Defendant, in its sole and absolute discretion, by written notice to Class Counsel if any of the following events occurs:
  - (a) More than 270 days passes from the date of execution of the Stipulation, and no Final Judgment Order has been entered by the Court;
  - (b) Any of the Class Representatives excludes themselves from the Class; or
  - (c) More than half of all claims submitted are valid and timely requests for exclusion from the Class. Copies of requests for exclusion shall be simultaneously sent to Class Counsel and Defendant's counsel promptly upon receipt by the Claims Administrator.

Any notice given by Defendant pursuant to subparagraphs (b) and (c) must be given by no later than three (3) days before the Fairness Hearing.

3. In the event that this Stipulation is voided, terminated or cancelled, or fails to become effective for any reason whatsoever, then within fifteen (15) business days after written notice is sent by Defendant to the Escrow Agent and Class Counsel, the Escrow Agent shall cause the Settlement Fund and all interest earned thereon (subject to the expiration of any time deposit not to exceed 90 days) to be refunded to the Defendant, less any Administrative Expenses paid or incurred in accordance with the terms of IV(D)(8) of this Stipulation. In such event, the Parties shall be deemed to have reverted to their respective statuses as of the date and time immediately prior to the execution of this Stipulation, and they shall proceed in all respects as if this Stipulation, its exhibits, and any related agreements or orders, had never been executed. In such event, the Parties jointly will seek vacation of any order entered or actions taken in connection with this Stipulation.

**G. Data Practices**

1. All Education Data relating to Class members or Potential Members of the Class and their Guardian or Parents that the Claims Administrator, Claimant Navigation Support, Class Counsel, or any

other agents on behalf their behalf receive from MDE or other education agencies are subject to the privacy and confidentiality provisions of federal and state statutes, rules, and regulations including, but not limited the Family Educational Rights and Privacy Act, (“FERPA”), 20 U.S.C. § 1232g *et. seq.* and 34 C.F.R. Part 99, and Minnesota Government Data Practices Act, (“MGDPA”) Minn. Stat. ch. 13.

2. The Claims Administrator, Claimant Navigation Support, Class Counsel, or their agents agree to abide by the provisions of FERPA, the MGDPA, and any and all other applicable state and federal laws governing the data received from MDE and local school districts pursuant to this stipulation and Court Orders, and all data created, collected, received, stored, used, maintained, or disseminated under this Class Action.
  
3. The Claims Administrator, Claimant Navigation Support, Class Counsel, or their agents, agree to use the data it receives from MDE and local education agencies only to the extent necessary to administer the Class action pursuant to and in compliance with this stipulation, Court Order and applicable state and federal law. The Claims Administrator and Claimant Navigation Support will not use the individual-level student data for any other purpose. This restriction does not apply to summary data created as a result of the

Class action, so long as the summary data do not potentially personally identify any individual students or their guardian or parent.

4. Education data received under this Class Stipulation may not be duplicated, disseminated or used by the Claims Administrator, Claimant Navigation Support, Class Counsel, or their agents, for another purpose or program without the express written permission of MDE or the Student or applicable guardian. All copies of data of any type, including any modifications or additions to data from any source that contains information regarding individual students, are subject to the provisions of this Stipulation in the same manner as the original data.
5. The Claims Administrator, Claimant Navigation Support, Class Counsel, and their agents, agree that only those employees, contractors, and agents who need to have access to data provided under this Stipulation because they are conducting work directly related to analysis pursuant to the Stipulation will have access to the data.
6. All employees, contractors, and agents who have access to the data shared under this Class action will comply with all applicable federal and state laws with respect to the data shared under this Stipulation. The Claims Administrator, Claimant Navigation Support, Class Counsel and their agents ensure that all personnel having access to

education data under this Class action have been instructed regarding the governing privacy and data practices laws and best practices; are trained to use the safeguards employed to protect the privacy and integrity of student data shared pursuant to this Stipulation; and are subject to adequate supervision to provide compliance with applicable federal and state data practices laws.

7. The Claims Administrator, Claimant Navigation Support, Class Counsel, and their agents, will use reasonable efforts to store and process the data received from MDE or the local education agencies in such a way that unauthorized persons cannot retrieve the information by means of a computer, remote terminal, or any other means. The Claims Administrator, Claimant Navigation Support, Class Counsel, and their agents will use appropriate safeguards to prevent use or disclosure of private student information by its employees, contractors, and agents including, but not limited to, implementation of administrative, physical, and technical safeguards to reasonably and appropriately protect the privacy and integrity of student data that it creates, receives, maintains or transmits under this Class Action
8. The Claims Administrator, Claimant Navigation Support, Class Counsel, and their agents, will report any known data security or data privacy incidents to MDE as soon as the incidents become known. For

purposes of this Stipulation, security incident means the unauthorized access, use, disclosure, modification, or destruction of information. Privacy incident means violation of the MGDPA or any other applicable state or federal data practices laws including, but not limited to, improper and/or unauthorized use or disclosure of protected information, and breach of security of information, as defined by Minnesota Statutes, Section 13.055. This report must be made in writing and provided to the original data source as soon as possible after the security or privacy incident is discovered.

9. The Claims Administrator, Claimant Navigation Support, Class Counsel, and their agents, will destroy any education data received from MDE or school districts upon completion, expiration, or termination of the Class Action using a secure method of destruction that prevents inadvertent release of any data contents during or after the destruction process. Summary data and summary analysis that do not potentially identify individual students are not subject to this requirement.

#### **H. Miscellaneous Provisions**

1. This Stipulation and its exhibits constitute the entire agreement among the Parties hereto, and no representations, warranties or inducements have been made to any Party concerning this Stipulation or its exhibits



other than the representations, warranties, and covenants contained and memorialized in such documents.

2. All of the exhibits attached hereto are hereby incorporated by this reference as though fully set forth herein. Notwithstanding the foregoing, in the event that there exists a conflict or inconsistency between the terms of this Stipulation and the terms of any exhibit attached hereto, the terms of the Stipulation shall prevail.
3. This Stipulation will be executed on behalf of the Plaintiffs by their counsel of record, and on behalf of Defendant by the Commissioner of Education, or a person with delegated authority to bind the agency. All persons executing this Stipulation represent and warrant that they are authorized and empowered to execute this Stipulation on behalf of their stated client(s) or agency, and that the signature each is intended to and does legally bind stated client(s).
4. Class Counsel, on behalf of the Class, are authorized to take all appropriate action required or permitted to be taken by the Class pursuant to this Stipulation to effectuate its terms. Class Counsel also are authorized to enter into any modifications or amendments to this Stipulation on behalf of the Class which such counsel deem appropriate.
5. This Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and

the same instrument. Counsel for the Parties shall exchange among themselves signed counterparts. Signatures may be originals, or facsimile or pdf. copies.

6. This Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties to this Stipulation.
7. This Stipulation may be amended or modified only by a written instrument signed by the Parties or their successors-in-interest.
8. The waiver by one Party of any breach of this Stipulation by any other Party shall not be deemed a waiver, by that Party or by any other Party to this Stipulation, of any other prior or subsequent breach of this Stipulation. The waiver by one Party shall not be deemed a waiver by any other Party.
9. The Parties have entered into this Stipulation solely as a compromise of all claims for the purpose of concluding the disputes between them, and the Stipulation may not be used by any third party against a Party. Further, neither this Stipulation, nor any document referred to herein, nor any action taken to carry out this Stipulation, is, may be construed as, or may be used as, an admission of wrongdoing or liability by any Party, such wrongdoing and liability being expressly denied and no final adjudication having been made. Pursuant to Fed. R. Evid. 408, entering into or carrying out this Stipulation, the exhibits hereto, and any negotiations or proceedings related thereto, shall not in any event

be construed as, or deemed to be evidence of, an admission or concession by any of the Parties or a waiver of any applicable statute of limitations, and shall not be offered or received into evidence in any action or proceeding against any Party in any court, administrative agency or other tribunal for any purpose whatsoever, other than to support a defense based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense, or to enforce the provisions of this Stipulation or the provisions of any related agreement or exhibit hereto.

10. All terms of this Stipulation and the exhibits hereto shall be governed by and interpreted according to the laws of the State of Minnesota, without regard to conflicts of laws, except to the extent federal law requires that federal law govern.
11. The Parties and their counsel agree to use their best efforts, and to take all reasonable steps necessary, to obtain the entry of the Preliminary Approval Order and the Final Judgment Order, and to effectuate the Settlement set forth in this Stipulation.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Stipulation to be executed, by their duly authorized attorneys, as of the date stated above.

Date: April 1, 2024

/s/ Jason H. Kim

Jason H. Kim  
SCHNEIDER WALLACE COTTRELL KONECKY  
LLP  
300 S. Grand Ave, Suite 2700  
Los Angeles, California 90071  
Phone: (213) 835 1550  
Fax: (415) 421 7105  
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*And*

Date: April 1, 2024

/s/ Sonja D. Peterson

Sonja D. Peterson  
Paulo Castro  
Minnesota Disability Law Center  
111 North Fifth St., Suite #100  
Minneapolis, MN 55403  
Email: [speterson@mylegalaid.org](mailto:speterson@mylegalaid.org)  
[pcastro@mylegalaid.org](mailto:pcastro@mylegalaid.org)  
*Class Counsel*

Date: April 1, 2024

s/ Martha J. Casserly

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*Attorneys for Defendant Minnesota  
Department of Education*

Date: April 1, 2024



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Willie Jett, II  
Minnesota Department of Education  
400 Stinson BLVD  
Minneapolis, MN 55413  
*Commissioner of Education*

## EXHIBITS

Exhibit A: Final Judgment Order

Exhibit B: Notice of Class Action Determination, Proposed Settlement, and Hearing Thereon

Exhibit C: Preliminary Approval Order

Exhibit D: Claim Form

Exhibit E: Plan of Distribution

# **Exhibit B**

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 you have received special education services by any school district or other local educational agency in Minnesota while you were 21 years old in the past five years, 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 the MDE violated federal law by having a state statute that prematurely terminated their special education instructions and services before they turned 22.
- The Court has ruled that the MDE did violate federal law as alleged and has allowed the lawsuit to proceed as a class action on the issue of to what compensatory educational services Class Members who are not **currently** receiving special education services are entitled. 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:

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT</b>	
<b>SUBMIT A CLAIM</b>	<p><b>Stay in this lawsuit and participate in the Settlement. Send in a Claim Form. Give up certain rights.</b></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.</p>
<b>OBJECT TO THE SETTLEMENT</b>	<p><b>Tell the Court you object to the Settlement.</b></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>
<b>ASK TO BE EXCLUDED</b>	<p><b>Get out of this lawsuit. Get no compensatory educational benefits. Keep rights.</b></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.</p>
<b>DO NOTHING</b>	<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 .....
- This notice also provides important information about disclosure of your educational records.

- **Any questions? Read on and/or call the Minnesota Disability Law Center at 612-746-3738.**

#### **BASIC INFORMATION**

##### **1. Why did I get this notice?**

The MDE's records indicate that you previously received special instruction and services under the Individuals With Disabilities Education Act ("IDEA") in Minnesota and that your special instruction and 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. 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, the school districts and other local educational agencies ("LEAs") to terminate special instruction and services to class members before they turned 22. The Court has ruled that the state statute violated the IDEA by terminating special instruction and services of class members before they turned age 22. 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 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 Minnesota Disability Law Center at 612-746-3738.

## THE SETTLEMENT

### 7. What does the Settlement provide?

The Settlement provides reimbursement for Class Members of certain expenses. To obtain reimbursement, a class member must submit a Claim Form. The Claims Administrator will determine based on your educational records whether you are eligible for reimbursement. 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 (if any) to which you may be entitled. The amount of reimbursement 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 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 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 qualify for reimbursement:

- 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 of 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 will be paid up to twelve months after the deadline to submit a Claim Form and additional reimbursements and other distributions from the Fund will be paid up to six months after the deadline for initial reimbursements.

#### **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 **[DATE]**, to "Clerk of Court, United States District Court for the District of Minnesota, 316 N. Robert Street, Suite 100, Saint Paul, MN 55104."

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. v. Jett. Be sure to include your name and address, and sign the letter. You must mail your Exclusion Request postmarked by **[DATE]** to Minnesota Disability Law Center, Attention: **Sonja Peterson, 111 North 5<sup>th</sup> 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. 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. 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 compensatory education. 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.

**16. What happens if I do nothing?**

If you do nothing by the deadline, you will still be considered part of the Class. 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.

**17. 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 ... 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](http://www.EducationBenefitsClassAction) 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

### 18. 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/](http://www.mylegalaid.org/disability-law-center/) and [www.schneiderwallace.com](http://www.schneiderwallace.com).

### 19. 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.

### 20. How will the lawyers be paid?

Class Counsel have already received \$125,000 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 Counsels’ request, the fees and expenses would be deducted from the Fund.

## GETTING MORE INFORMATION

### 21. Are more details available?

Visit the website [www.EducationBenefitsClassAction.com](http://www.EducationBenefitsClassAction.com) where you will find important documents relating to this case. You may also speak to one of Class Counsel by calling the Minnesota Disability Law Center at 612-746-3738 or emailing it at [epulanco@mlegalaid.org](mailto:epulanco@mlegalaid.org). 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.



# **Exhibit C**

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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K.O., by and through his parent and  
guardian J.O. on behalf of a class of those  
similarly situated,

Case No. 21-CV-1837 (PJS/DJF)

Plaintiff,

v.

ORDER

WILLIE L. JETT, II, in his capacity as the  
Commissioner of the Minnesota  
Department of Education, State of  
Minnesota,

Defendant.

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Sonja Dunnwald Peterson, MINNESOTA DISABILITY LAW CENTER,  
and Jason Kim, SCHNEIDER WALLACE COTTRELL KONECKY LLP, for  
plaintiff.

Alexander Robertson Sloan, Martha J. Casserly, and Joseph D. Weiner,  
MINNESOTA ATTORNEY GENERAL'S OFFICE, for defendant.

Plaintiff K.O. brought this class action against the Commissioner of the  
Minnesota Department of Education alleging that the State violated the Individuals  
with Disabilities Education Act ("IDEA"). The Court granted summary judgment for  
plaintiff and ordered the Commissioner to provide compensatory education to class  
members who turned 21 years of age prior to July 1, 2022. ECF No. 69. This matter is  
before the Court on plaintiff's motion for preliminary approval of the settlement that  
implements that Order. ECF No. 99.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. The Court has considered the proposed settlement of the compensatory education claims asserted in the above-captioned action (“Settlement”), stipulation attached as Exhibit “A” to the motion for approval.

Capitalized terms below shall have the same meaning as in the Stipulation of Settlement.

2. By Order dated September 29, 2022, ECF No. 43, the Court certified the following Class:

All children (a) who are receiving or received special instruction and services pursuant to the Individuals with Disabilities Education Act and Minnesota Special Instruction laws from a local educational agency in Minnesota, (b) who became 21 years old after July 1, 2019, or will become 21 during the pendency of this action, (c) whose special instruction and services ended, or will end, on July 1 after their 21st birthday pursuant to Minn. Stat. § 125A.03(b), (d) whose special instruction and services ended, or will end, before they complete the graduation requirements to receive a regular high school diploma as defined in 34 C.F.R. 300.102(a)(3)(iv).

3. Because the State of Minnesota amended Minn. Stat. § 125A.03(b) effective July 1, 2023, this case is moot as to prospective relief. Therefore, only those

members of the Class who were terminated from special education prior to July 1, 2022, have any claims left to be resolved, i.e. claims for compensatory education. By Order dated August 25, 2023, the Court declared the prior version of Minn. Stat. § 125A.03(b) violated the Individuals with Disabilities Education Act insofar as denying special education to students with disabilities who had not received a regular high school diploma and who had not yet reached the age of 22 and ordered compensatory education to class members who turned 21 years of age prior to July 1, 2022. ECF No. 69.

4. The Settlement appears, upon preliminary review, to be fair, reasonable, and adequate as to the Class and the Court will likely be able to approve the Settlement under Fed. R. Civ. P. 23(e)(2), pending a Final Fairness Hearing, as provided for below.
5. The parties are directed to contact the Court to schedule a Final Fairness Hearing pursuant to Fed. R. Civ. P. 23(e) for the following purposes:
  - a. To determine whether the Settlement is fair, reasonable, and adequate and should be granted final approval by the Court;

- b. To determine whether the Plan of Distribution attached as Exhibit “B” to the Motion for Preliminary Approval of Class Action Settlement is fair, reasonable, and adequate;
  - c. To determine whether a final judgment should be entered dismissing the claims of the Class with prejudice, as required by the Stipulation of Settlement; and
  - d. To rule upon other such matters as the Court may deem appropriate.
6. The Court approves the Class Notice attached as Exhibit “C” and the Claim Form attached as Exhibit “D” to the Motion for Preliminary Approval of Class Action Settlement.
7. The Court appoints Continental DataLogix LLC as Claims Administrator under the supervision of Class Counsel.
8. The Court orders Defendant and Minnesota local education agencies to disclose education records on Potential Members of the Class or Class Members to the Claims Administrator as follows:
- A. The Minnesota State Department of Education (“MDE”) is hereby ordered to disclose to the Claims Administrator the following data on Potential Members of the Class from the MDE Minnesota Automated Reporting Student System (“MARSS”) reporting system:

- (1) Student's Name;
- (2) Student's Birthdate;
- (3) Student's last status end date; and
- (4) Name of last School District enrolled and the last district's identifier

MDE is ordered to notify the Potential Members of the Class of the disclosure and the right to object through the following efforts:

- (1) Posting a notice of the disclosure prominently on MDE's website;
- (2) Including notice of the disclosure in MDE's newsletters to local educational agencies with a request that the local educational agencies spread the notice in ways they deem effective;
- (3) Issuing a joint press release with Disability Law Center that includes notice of the disclosure;
- (4) Providing a written notification of the disclosure to disability advocacy organizations for those organizations to distribute among the disability community in Minnesota;
- (5) Providing a written notification of the disclosure to state government entities for those organizations to distribute among the disability community in Minnesota;
- (6) Providing a written notification of the disclosure to county health and social services agencies to be posted in their offices.

Under the facts and circumstances in this case, these actions constitute a reasonable effort to notify the Potential Members of the Class of the disclosure. 34 C.F.R. § 99.31(a)(9)(ii).

B. Local Education Agencies in Minnesota are hereby ordered to disclose contact information on Potential Members of the Class or their parents or guardians to the Claims Administrator upon request by the Claims Administrator. Minn. Stat. § 13.32, subd. 3(b) and 34 C.F.R. § 99.31(a)(9)(i).

C. Local Education Agencies in Minnesota are hereby ordered to disclose educational data necessary for the Claims Administrator to determine eligibility of Potential Class Members or compensatory education services to Class Members, upon request by the Claims Administrator. Minn. Stat. § 13.32, subd. 3(b) and 34 C.F.R. § 99.31(a)(9)(i).

9. The Claims Administrator shall mail the Class Notice and Claim Form to those Potential Class Members who have been identified through Defendant's records and make the Class Notice and Claim Form available to Potential Class Members on a settlement website or by calling a toll-free number.
10. The Court finds that the mailing and distribution of the Class Notice and Claim Form as provided above fully satisfies the requirements of Fed. R. Civ. P. 23 and is the best notice practicable under the circumstances.
11. Any Class Member who desires to request exclusion from the Class must submit a request for exclusion by the time and in the manner set forth in the Class Notice.

12. Any objections to the Settlement and the Plan of Distribution shall be heard, and any papers submitted in support of said objections shall be received and considered by the Court at the Final Fairness Hearing (unless, in its discretion, the Court shall direct otherwise), only if, on or before a date to be specified in the Class Notice, persons making objections give notice of their intention to appear, and file with the Court and submit copies of such papers as they propose to submit in the manner described in the Class Notice.
13. In order to share in the Net Settlement Fund, a Class Member must execute and submit a valid Claim Form in the manner provided in the Class Notice and within such time as is stated in the Class Notice.
14. A Claim Form filed by mail shall be deemed to have been submitted when legibly postmarked by the U.S. Postal Service, if mailed by first-class mail, registered mail, or certified mail, postage prepaid, addressed in accordance with the instructions given in the Claim Form and all other Claim Forms shall be deemed to have been submitted at the time they are actually received by the Claims Administrator.
15. Upon entry of the Final Judgment Order, the Class Representatives and all Class Members, whether or not they submit a timely Claim, shall be



permanently enjoined and barred from asserting any claims (except through the Claim procedures) against Defendant and Defendant's Releasees arising from the Released Plaintiffs' Claims, and the Class Representatives and all Class Members conclusively shall be deemed to have released any and all such Released Plaintiffs' Claims.

16. Upon the Effective Date of the Settlement, only persons who are Authorized Claimants shall have rights in the distribution of the Net Settlement Fund.
17. The Fairness Hearing may, from time to time and without further notice to Class Members, be continued or adjourned by order of the Court.

IT IS SO ORDERED.

Dated: May 14, 2024

s/Patrick J. Schiltz  
Patrick J. Schiltz, Chief Judge  
United States District Court

# **Exhibit D**

K.O. v. Jett  
c/o Claims Administrator  
P.O. Box 16  
West Point, PA 19486

CLAIM FORM  
*K.O. et al. v. Jett*  
Case No. 21-cv-01837 (USDC - Minnesota)

ID#  
Name [BARCODE] Unique Claim Number: KO-#####  
Address Line 1  
Address Line 2  
City, State, Zip Code

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### CLAIM FORM INSTRUCTIONS

#### DEADLINE – MONTH ##, 2024

- In order for you to qualify to receive benefits related to *K.O. et al. v. Jett* as described in the Class Notice, you must complete and submit the attached Claim Form. The Claim Form must be postmarked by **Month ##, 2024** and sent by first class mail to:

MN Dept. of Education Settlement  
c/o Claims Administrator  
P.O. Box 16  
West Point, PA 19486

- Your claim will be considered only if you comply with all of the following conditions:
  - You must be a person (or acting on behalf of the person) to whom a Class Notice was addressed and you must be listed as a potential Class Member based on data maintained by the Claims Administrator and received from the Minnesota Department of Education and/or a local school district. The Class Member is referred to as the “Student” in the Claim Form.
  - You must accurately complete all required portions of the Claim Form.
  - By submitting the Claim Form, you are certifying that: (1) to the best of your knowledge, you (or the person on whose behalf you are submitting the Claim Form) are a member of the Class; and (2) if you are submitting a Claim Form on behalf of someone else (for example, your child), you are authorized to act on that individual’s behalf.
- Submission of a Claim Form does not mean you will automatically receive any benefit. All Claim Forms are subject to further determination of eligibility as a Class Member and for benefits. The amount of benefits (if any) you receive will depend on: (1) your share of the settlement amount based on your birthdate and the number of valid claims received; and (2) your ability at a later stage to provide adequate documentation of certain expenses up to your share. Once your Claim Form has been received, and your eligibility for benefits is confirmed, the Claims Administrator will mail to you a form with additional instructions to obtain reimbursement of qualified expenses.
- If you do not submit a Claim Form by **Month ##, 2024**, you will not receive any benefit from the settlement.
- If you have questions or need assistance filing the Claim Form, please contact the Claims Administrator at [questions@EducationBenefitsClassAction.com](mailto:questions@EducationBenefitsClassAction.com) or call (833) 215-9289.

K.O. v. Jett  
 c/o Claims Administrator  
 P.O. Box 16  
 West Point, PA 19486

CLAIM FORM  
*K.O. et al. v. Jett*  
 Case No. 21-cv-01837 (USDC - Minnesota)

**CLAIM FORM**

**Section I - Student/Class Member Information:**

(Please note that the Claims Administrator may contact you for additional information, if necessary to identify you.)

Student Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, ZIP: \_\_\_\_\_

Last School District in Which the Student Received Special Education: \_\_\_\_\_

Student's Date of Birth: \_\_\_\_\_

Please provide student's telephone and email address:

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

**Section II - Representative Information (i.e., Parent, Guardian, etc.):**

(Complete the following only if the individual submitting the Claim Form is different from the Student/Class Member.)

Representative Name: \_\_\_\_\_

Relationship to Student: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, ZIP: \_\_\_\_\_

Please provide representative's telephone and email address:

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

**Section III - Signature:**

By submitting the Claim Form, you are certifying that:

- (1) to the best of your knowledge, you (or the person on whose behalf you are submitting the Claim Form) are a member of the Class; and
- (2) if you are submitting a Claim Form on behalf of someone else (for example, your child), you are authorized to act on that individual's behalf.

*By signing your name, you are attesting to the truthfulness of this statement under penalty of perjury.*

\_\_\_\_\_  
 Signature Printed Name Date

<b>CLAIM FORM FILING INSTRUCTIONS</b>	<b>By Mail: MN Dept. of Education Settlement c/o Claims Administrator P.O. Box 16, West Point, PA 19486</b>	<b>Deadline: MONTH ##, 2024</b>
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# **Exhibit E**

## **PLAN OF DISTRIBUTION**

### **OBJECTIVE**

The objective of this Plan of Distribution is to make available appropriate and suitable compensatory education services and supports to as many Class Members as possible in an equitable manner.

### **DEFINITIONS**

All definitions listed in the Stipulation of Settlement apply herein. The following additional definitions apply:

1. “Allotted Amount” – the calculated amount of settlement funds allotted per a given Authorized Claimant.
2. “Daily Calculation” – the calculated amount per estimated day of instruction missed.
3. “Distribution Period” – the time period during which Authorized Claimants may submit distribution claims for eligible compensatory education uses.
4. “Eligible Uses” – acceptable uses of settlement funds to fulfill objective of providing compensatory education.
5. “Final Distribution Date” – last date by which distribution claims may be submitted that will be paid out of the Net Settlement Fund.

### **NOTICE**

1. Claims Administrator will send out to all potentially class members informing potential class members of their right to compensatory education and information about how to submit a Claim Form. If the notice is returned, efforts will be made to seek a more current address, potentially connecting with other government entities, as permitted by state and federal law, to locate more current information
2. A website will available for all class members to sign up and receive information and updates.
3. MDLC will host at least one remote meeting with information about eligibility, compensatory education, and how to access funds and will make a recording available.

### **CLAIM SUBMISSION**

1. Class Members shall submit Claims in accordance with the process outlined in the Stipulation of Settlement.
2. Class membership eligibility is as follows: All children (a) who are receiving or received special instruction and services pursuant to the Individuals with Disabilities Education Act and Minnesota Special Instruction laws from a local educational agency in Minnesota, (b) who became 21 years old between July 1, 2019 and July 1, 2022; (c) whose special instruction and services ended-after their 21st birthday pursuant to Minn. Stat. § 125A.03(b), (d) whose special instruction and services ended, or will end, before they complete the graduation requirements to receive a regular high school diploma as defined in 34 C.F.R. 300.102(a)(3)(iv).

3. The Claims Administrator shall confirm eligibility based on eligible submissions by Class Members to confirm: (1) receipt of special education services, (2) birthday (3) enrollment and (4) diploma status.
4. For the purposes of confirming eligibility, adequate documentation may include the following, but is not limited to:
  - i. Receiving special education services:
    1. Recent special education document:
      - a. Individualized Education Plan (IEP)
      - b. Progress Report
      - c. Evaluation or Re-evaluation
      - d. Other document confirming receipt of services or eligibility
  - ii. Birthday:
    1. School documentation including a birthday (e.g. Individualized Education Plan, transcript)
    2. State or federal-issued identification card
  - iii. Enrollment and Diploma status (if reported to have received a diploma):
    1. Final transcript

#### **FUND ALLOTMENT**

1. Fund allotment will be as follows:
  - a. Of the Settlement Fund, 20% will be set aside for Attorneys' Fees, Administrative Expenses, Litigation Expenses, and any Taxes, as defined in the Stipulation of Settlement. This set aside is \$640,000, or .2 x \$3,200,000.
  - b. The remaining Estimated Net Settlement Fund will be allotted to Authorized Claimants based on their birth month, which is the month to which their eligibility for special education instruction and services likely would have extended under applicable federal law. This Plan of Distribution uses estimates of instruction days for each birth month based on the Minnesota statutory minimum of 165 instruction days per school year. *See* Minn. Stat. 120A.41. The estimates are as follows:
  - c. The allotted amount per Authorized Claimant will be calculated using the following formula:

**Daily calculation** = Estimated Net Settlement Fund amount / number of Authorized Claimants / mean of presumed total instructional days

Where:

- Estimated Net Settlement Fund amount: \$3,200,000-\$640,000 = \$2,560,000
- Number of Authorized Claimants = the number of Class Members who are Authorized Claimants having submitted a Claim Form that is approved

- Mean of presumed total instructional days is .5 of the statutorily required minimum instructional days, or 82.5

The Daily Calculation will be applied to Authorized Claimants based on birth month, according to the following chart:

	July-August	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	March	April	May	June
Presumed missed instructional days that month	8 <sup>1</sup>	17	17	17	17	17	17	17	17	17	5
Presumed total missed instructional days	8	25	42	59	76	93	110	127	144	161	166
Daily Calculation (d) * Presumed total missed instructional days	d*8	d*25	d*42	d*59	d*76	d*93	d*110	d*127	d*144	d*161	d*166

This results in an allotted amount available to each Authorized Claimant based on the month in which their birthday lands. Each Authorized Claimant shall be able to receive distributions for eligible uses up to the allotted amount available to them during the Distribution Period. However, each Authorized Claimant can make a claim in excess of the allotted amount available to such Authorized Claimant (“Excess Claim”) and such Excess Claims may be paid if the Net Settlement Funds are not exhausted.

Once the number of Authorized Claimants is known and the Daily Calculation can be completed, this chart will be updated to include actual amounts and made available to Authorized Claimants.

Following the end of the Distribution Period, if the Net Settlement Funds are not exhausted, Excess Claims may be paid in an amount determined at the discretion of the Claims Administrator up until the Final Distribution Date.

## ELIGIBLE USES

1. Settlement Funds may be used to fund activities or other supports that would assist a Class Member in advancing a variety of goals aligned with the purposes of transition services, including but not limited to the areas of: employment, educational advancement,

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<sup>1</sup> The table includes an estimate of 8 instructional days missed for students with birthdays in either July or August because many Class Members were likely eligible for Extended School Year services, which typically occur during summer months, and potentially could have received them up until their birthdays under the applicable federal law.



vocational training, community living, independent living skills, social skills and activities, recreation, self-care, transportation

2. Non-exhaustive list of examples:
  - 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, horse therapy, music therapy, adapted physical education, or other similar activities)
  - v. supplies to assist with community integration or work or school
    1. textbooks
    2. bicycle
    3. bus pass
    4. gym membership
    5. ipad or computer
    6. learning subscription (e.g. applications to learn a second language or other skill)
  - vi. community integration and recreation
    1. camps
    2. day programming in community or for social activities
    3. community education classes
    4. museum membership
3. Eligible uses can include any activities above paid for and not already reimbursed by other sources during the class period (beginning July 1, 2020).
4. Notices and information regarding eligible uses and distribution requests shall include a disclaimer about the possibility of available of coverage for many of these items by other sources, such as Medicaid waivers or Vocational Rehabilitation Services.

## **DISTRIBUTION PROCESS**

1. After approval as an Authorized Claimant, an Authorized Claimant may submit distribution claims to the Claims Administrator for:
  - a. Reimbursement for expenses the Authorized Claimant or their guardians incurred in accessing Eligible Uses (including during the Distribution Period and/or as early as July 1, 2020); or
  - b. Direct payment to a provider or vendor for an Eligible Use.

2. The Claims Administrator shall establish a process by which Authorized Claimants submit distribution claims and confirmation of receipt and acceptance. Distribution Claims could include a brief description of the activity and its connection to an Eligible Use. Authorized Claimants may submit up to twelve (12) distribution claims during the Distribution Period, which will be paid up to the Allotted Amount for each Authorized Claimant. Excess Claims may also be paid as provided above.
  - a. The Claims Administrator shall review distribution claims for conformity with Eligible Uses and confirm receipt and acceptance. The Claims Administrator shall inform Authorized Claimants within ten (10) days if it determines a distribution claim does not fall within the Eligible Uses.
3. Claims Administrator shall distribute funds quarterly to Authorized Claimants or Vendors based on distribution claims submitted and accepted.
4. Distributed funds are reimbursement for or direct payment for services or supplies that are providing compensatory education for special education instruction and services Class Members missed as outlined in the litigation.

#### **TIMELINES**

Claim Period: period ending on the Bar Date

Bar Date: 120 days from the date that the Notice is mailed to Class Members

Distribution Period: 12 months following the end of the Claim Period

Final Distribution Date: 6 months following the end of the Distribution Period