

**IMPORTANT INFORMATION ABOUT YOUR RIGHTS
PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY.**

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
GABRIEL RUIZ, *et al.*,

Plaintiffs,

-against-

PAUL PEDOTA; *et al.*,

Defendants.

**NOTICE OF
SETTLEMENT**

Civ. No. 03-0502 (JBW)
(ASC)
-----X

**TO THE INTENDED BENEFICIARIES OF THE
AGREEMENT SETTling THE CAPTIONED LAWSUIT
CONCERNING FRANKLIN K. LANE HIGH SCHOOL.**

Several current and former Franklin K. Lane High School ("FKL") students filed a lawsuit against the Department of Education ("DOE"), claiming that on or after January 1, 2000, FKL improperly discharged them from the school or improperly transferred them to GED programs.

You are being provided this notice because you or your child is a current or former FKL student who may be entitled to certain services and have certain rights under a settlement agreement dated January 6, 2004 (the "Agreement") that has been entered into between the parties to the captioned lawsuit.

The Intended Beneficiaries

You are an intended beneficiary of the Agreement, and may be entitled to the services and have the rights that are described more fully below, if you fall into one of the following categories:

- **Separated FKL Student.** If you were discharged or transferred from FKL during the period from January 1, 2000, to February 2, 2004 you may be a Separated FKL Student. However, you are not a Separated FKL Student if you were (i) transferred from FKL to any other DOE High School when the transfer was completed within five (5) school days, (ii) transferred to any private or parochial school, (iii) moved outside the City of New York, or (iv) entered military service.

- Current FKL Student. If you are on the register at FKL during the period from February 2, 2004 through June 30, 2006, you are a Current FKL Student.
- Group A LTA Student: If you are a student who was registered for FKL and designated as a long-term absence at any point during the period from January 30, 2003, to February 2, 2004, you are a Group A LTA Student.
- Group B LTA Student. If you are a student who is registered for FKL and designated as a long-term absence at any point during the period from January 1, 2000, to February 2, 2004, you are a Group B LTA Student.

General Information About the Right to Attend School and Receive Services

All students have the following rights:

- Every student has the right to attend school full-time until he or she receives a regular high school diploma or until the end of the school year in which he or she turns 21, whichever comes first. This includes the right to take classes that prepare the student to earn credits for high school graduation and to take the examinations needed to obtain a Regents High School Diploma, and/or if applicable, a Local High School Diploma.
- Every student who leaves school and who is under 21 years of age and does not have a regular high school diploma has the right to re-enroll in school to earn a regular diploma. This includes but is not limited to students who enrolled in a GED program, or who dropped out of school and want to return to school.
- Every student has the right to refuse to be transferred to a GED program or any alternative program that does not provide the opportunity to earn credits towards a high school diploma.
- Every student has the right to notice of a suspension or involuntary transfer and an opportunity for a hearing or conference before being suspended or transferred to another school. For a complete description of your rights and the applicable procedures, please refer to Chancellor's Regulations A-240, A-443 and A-450. Copies of these regulations are available at your school and on the internet at www.nycenet.edu.
- Students, including those marked as long-term absence, may not be barred from attending classes solely due to age (unless the student is over 21 years old), lack of credits, poor grades, truancy, irregular attendance, or failure to pass Regents or RCT examinations.
- Every student who is transferring to a GED program or another school has the right to attend his or her current school until registered or enrolled at the new school or program.

- If a student is having difficulty in school, the student may be eligible to receive special instruction and/or services to help him/her stay in school and succeed. Such services and instruction include academic intervention services, student support services, guidance services and/or educationally related support services. Ask the student's guidance counselor to tell you about such services.
- Every student who has been determined to be an English Language Learner is entitled to bilingual education or English as a Second Language classes.
- Every student or parent has the right to request, at any time, an evaluation to determine whether the student has a learning disability or other disability. Ask your guidance counselor how to request an evaluation or make a request for an evaluation by writing directly to the Committee on Special Education, Region 5, Department of Education, 82-01 Rockaway Boulevard, Ozone Park, NY 11416.
- Every student with a disability, who has been determined to be in need of special education and/or related services, is entitled to a free appropriate public education until he or she receives a regular high school diploma or finishes the school year in which s/he turns 21, whichever comes first.

Additional Services Available Under the Agreement

Under the Agreement, services are being made available to help Separated FKL Students get reconnected with school and to help Current FKL Students stay in school. The available services are:

- Young Adult Success Center. The Department of Education ("DOE") is implementing a Young Adult Success Center in conjunction with Cypress Hills Services Center to assist Separated FKL Students get reconnected with school and to help Current FKL Students stay in school. Services, including academic support and counseling, are available for at least twelve (12) hours weekly.

If you are a Separated FKL Student attending a school or program other than FKL and you do not want or are not able to attend the program run by Cypress Hills at FKL, the DOE has agreed to make a reasonable effort to provide you with access to similar services at a more convenient location.

- Preference in Admission and Priority Enrollment. If you are a Separated FKL Students or a Group A LTA Student you will be provided preference in admission to classes necessary for high school graduation, priority access to evening and summer school programs, and will not be required to make up any physical education credits required by the DOE.
- Part Time Enrollment Option. If you are a Current FKL Student or Separated FKL Student and you require less than a full-time course load to complete the credits needed for high school graduation, you can attend a shortened school day at FKL.

Procedures for Re- Enrollment

Under the Agreement, you may be entitled to re-enroll in school in an expedited manner.

- **Re-Enrollment at FKL.** Any student who has been discharged or transferred from FKL and is under the age of 21 is allowed to register for and attend classes at FKL. To do so, the student (or his/her parent) must tell the principal, either by writing a letter, sending a fax, or sending an e-mail that he/she would like to register for and attend classes at FKL. The current contact information for the principal of FKL is: Frank Barrone, Principal, Franklin K. Lane High School, 999 Jamaica Avenue, Brooklyn, NY 11208, or to the current acting FKL Principal. Principal Barone's fax number is (718) 235-4877 and his email address is FBarone@nycboe.net. The student and/or the student's parent may also tell the principal in person at FKL. The student will be registered at FKL and able to attend classes by the end of the second school day after he/she tells the principal that he/she would like to attend.

Group A LTA Students must be provided a program card and allowed to attend to classes within two (2) school days of the student's notification of the student's desire to attend classes.

- **Enrollment at Other DOE Schools and Programs.** If you are a Separated FKL Student under the age of 21 and you not wish to reregister at FKL or if you are a Group A LTA Student under the age of 21 and you do not wish to attend classes at FKL, you may register for a DOE High School other than FKL.

If you are a Separated FKL Student or a Group A LTA Student under the age of 21 and you do not wish to register for or attend classes at a DOE High School, you have the option of registering for a DOE GED Program.

If you are a Current FKL Student, a Separated FKL Student, or a Group A LTA Student over the age of 17 and are eligible for these programs, you may voluntarily choose to register for the DOE Adult Education Program or DOE Evening High School.

To register for these programs, Current FKL Students, Separated FKL Students, or Group A LTA Students must deliver a written request providing the student's name, home address, telephone number, date of birth, name and dates of last educational program attended, and the name(s) of each DOE High School, DOE GED Program, DOE Adult Education Program, and DOE Evening High School for which enrollment is sought, in order of preference if more than one is listed. If the student seeks to enroll for a future semester, the student must also indicate the semester for which enrollment is sought. The written request must be delivered, faxed, or e-mailed to Marjorie A. Elliott, Regional Director of Student Placement, Youth and Family Support Services, Region 5 Learning Support Center,

Department of Education, 82-01 Rockaway Boulevard, Ozone Park, NY 11416, or to her successor. Ms. Elliott's fax number is (718) 642-5707 and her email address is MElliott@nycboe.net.

If a guidance conference is needed to place the student, the student shall make himself or herself available during the three (3) school days following delivery of the request.

If the student wants to enroll in a DOE Evening High School, the written request must be delivered on or before 5:00 p.m. of the tenth school day of the applicable semester, or the student will not be enrolled in such program until the following semester. However, if the student is 21 years old or over, the DOE will make every reasonable effort to make sure that the student is enrolled in an appropriate program during the current semester, even if notice is delivered after ten (10) school days into the semester.

- Enrollment of Students Age 21 or Older. If you are a Separated FKL Student or a Group A LTA Student and are 21 years or older at the time you request readmission or if you turn 21 prior to obtaining a diploma, you can register in your choice of a DOE GED Program, DOE Adult Education Program, or DOE Evening High School. You will be given the option of obtaining a GED, Regents Diploma, or, if applicable, Local High School Diploma, at no cost. You will be permitted to take the courses and examinations needed to obtain the diploma you want and you may continue to attend such program until June 30, 2008 or until you obtain a diploma, whichever comes first, as long as you are making progress toward getting the diploma. If you are working towards a Regents Diploma or Local High School Diploma, you may take up to six credit-bearing courses per semester. In addition, until June 30, 2008, you will be allowed to attend the Young Adult Success Center described above or access to similar services at a more convenient location if available.

The Agreement Does Not Impair Your Rights or Claims

Nothing in the Agreement impairs any rights or claims that you may have against the DOE arising from the alleged incidents asserted in the captioned action. This includes any alleged right or claim to seek money damages and/or compensatory educational services, including but not limited to those sought under the Individuals with Disabilities Education Act, 20 U.S.C. § 1401, *et seq.*, or the Rehabilitation Act, 29 U.S.C. § 794. Nothing in this agreement impairs the right of any Current FKL Student, Group A LTA Student, Group B LTA Student, or Separated FKL Student or their parents or legal guardians to seek a disability evaluation, guidance evaluation, or due process hearing, as permitted by law. The statute of limitations on such claims has been tolled during the period from January 1, 2003, to February 2, 2004.

Additional Information

If you would like any additional information about your rights under this lawsuit, you may contact plaintiffs' counsel (the lawyers who filed this lawsuit) at:

Advocates for Children of New York
151 W. 30th Street, 5th Floor
New York, New York 10001
212-947-9779 x550

Morrison & Foerster
1290 Avenue of the Americas
New York, New York 10104
212-468-8245

If you do not reach anyone, please leave your name and number and someone will call you back shortly.

Fairness Determination

Any person who wishes to challenge the fairness of the Agreement pursuant to which this notice has been sent, may communicate in writing with the Clerk's Office, United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York 11201. The communication must contain the index number of the case (Civ. No. 03-0502 (JBW) (ASC)). In view of the nature of the Agreement and Rule 23 (e) of the Federal Rules of Civil Procedure, a fairness hearing is not required.

Dated: Brooklyn, New York
February 2, 2004

By Order of the United States District Court
for the Eastern District of New York

HONORABLE JACK B. WEINSTEIN
United States District Judge