



Advocates for Children
of New York
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News Release

For Immediate Release

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Judge Orders NYC Department of Education to Fix Broken System for Implementing Special Education Hearing Orders

July 19, 2023 (NEW YORK, NY) – Today, Judge Loretta A. Preska of the U.S. District Court for the Southern District of New York issued an order in the class action, [L.V. v. New York City Department of Education](#), compelling the New York City Department of Education to change its systems for complying with special education administrative orders.

Advocates for Children of New York (AFC) and *pro bono* co-counsel Milbank LLP filed the class action lawsuit in 2003, alleging that, after parents of children with disabilities received favorable orders in special education administrative hearings, the DOE was failing to implement the ordered remedies. The DOE settled the case in 2008, with the lawsuit ending if the DOE implemented most orders within 35 days. The DOE, however, failed to comply for more than a decade, and students continued to wait for ordered relief.

"Families file hearings only as a last resort, after their child has already been denied the services or school placements they need to learn," said Kim Sweet, Executive Director of Advocates for Children of New York. "To then wait months or years without ordered services or reimbursements adds insult to injury for students and their families, and in our experience can lead to further harm for the families."

At AFC and Milbank's request, a Special Master was appointed in 2021 to investigate the DOE's delays in implementation of hearing orders. In March 2022, the Special Master, David Irwin from Thru Consulting, issued his [findings](#) on the failures within the DOE's hearing order implementation systems; the following year, the Special Master issued [recommendations](#) on DOE actions necessary for timely implementation of hearing orders.

Today's order by Judge Preska incorporates the changes to the DOE's systems and internal structures that the Special Master recommended, and includes more than 41 required steps that the DOE must take with deadlines ranging from 2 months to a little over a year for the DOE to effect the changes.

Among other changes, the order requires the DOE to create a structure for parents to contact the DOE when their special education administrative hearing orders are not implemented, including a support

hotline for order implementation; improve and build DOE technology systems for implementing hearing orders; and recruit and fund new staff to implement hearing orders.

“After enduring the lengthy and burdensome process of a hearing, families rightly expect their child will finally get the services they need—not months of stalling,” said Rebecca Shore, Director of Litigation at Advocates for Children of New York. “We are hopeful that Judge Preska’s order will mean students with disabilities finally receive the services that they need, at the time they are needed.”

“AFC and Milbank have fought for decades to fix the Department of Education’s hearing order implementation system, and ultimately, secure vital services for all New York City students with disabilities,” said Jasper Perkins of Milbank LLP. “We cannot unwind decades of systemic failure, but we hope that the changes recommended by the special master’s report—and compelled by the court—will ensure no families endure the same neglect in the future.”

About Advocates for Children of New York (AFC)

Since 1971, Advocates for Children of New York has worked to ensure a high-quality education for New York students who face barriers to academic success, focusing on students from low-income backgrounds who are at greatest risk for failure or discrimination in school because of their poverty, disability, race, ethnicity, immigrant or English Language Learner status, sexual orientation, gender identity, homelessness, or involvement in the foster care or juvenile justice systems. AFC uses four integrated strategies: free advice and legal representation for families of students; free trainings and workshops for parents, communities, and educators and other professionals to equip them to advocate on behalf of students; policy advocacy to effect change in the education system and improve education outcomes; and impact litigation to protect the right to quality education and compel needed reform. To learn more about AFC, please visit www.advocatesforchildren.org.

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