

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA  
CIVIL DIVISION

T.P., a minor,  
through his guardian Eli Zlokas<sup>1</sup> and  
Jennifer Staley McCrady  
as next friend

C.K., a minor,  
through his guardian Shawn Gatto  
and  
Jennifer Staley McCrady  
as next friend

W.R., a minor,  
through his guardian Celia Barlow  
and  
Jennifer Staley McCrady  
as next friend

Individually and on behalf of all others  
similarly situated

Plaintiffs,

v.

MCKEESPORT AREA SCHOOL DISTRICT,

Defendant.

G.D. 10-019236  
Class Action

**JOINT MOTION FOR FINAL APPROVAL OF  
PROPOSED CLASS ACTION SETTLEMENT AGREEMENT**

Named Plaintiffs T.P., C.K., and W.R. and Defendant McKeesport Area School District

<sup>1</sup> The complaint was filed on October 14, 2010. Since then, changes in the court have resulted in the court appointments of KidsVoice as educational and medical decision makers for named plaintiffs T.P., C.K., and W.R. Eli Zlokas, Shawn Gatto, and Celia Barlow no longer represent T.P., C.K., and W.R., respectively, in any legal capacity.

.(“District”) (collectively the “Parties”), by and through their undersigned attorneys, now move this Court for an Order granting final approval of the proposed Class Action Settlement Agreement previously filed with the Court. A proposed Order is attached hereto.

Respectfully submitted,

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Nancy Hubley  
Attorney No. 40228  
Maura McInerney  
Attorney No. 71468  
Deborah Gordon Klehr  
Attorney No. 95071  
Education Law Center  
1315 Walnut Street, Suite 400  
Philadelphia, Pa. 19107  
215-238-6970, ext. 307

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Jennifer Staley McCrady  
Attorney No. 90891  
Scott Hollander  
Attorney No. 77834  
Amanda W. Shackelton  
Attorney No. 309704  
KidsVoice  
437 Grant Street  
Suite 700  
Pittsburgh, Pa. 15219  
412-391-3100 ext. 167  
Counsel for Plaintiff

---

John Rushford  
Attorney No. 60029  
Dodaro Cambest & Associates  
1001 Ardmore Blvd.  
Pittsburgh, PA 15221-5223  
(412) 243-1600

Counsel for Defendant

Date: August 23, 2012

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA  
CIVIL DIVISION

T.P., a minor,  
through his guardian Eli Zlokas<sup>1</sup> and  
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Individually and on behalf of all others  
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Plaintiffs,

v.

MCKEESPORT AREA SCHOOL DISTRICT,

Defendant.

G.D. 10-019236  
Class Action

JOINT STIPULATION

AND NOW, this 23 day of August 2012 come Plaintiffs T.P., *et. al.* and  
Defendant McKeesport Area School District (jointly "Parties") who hereby stipulate as follows:

<sup>1</sup> The complaint was filed on October 14, 2010. Since then, changes in juvenile court procedures have resulted in the court appointments of KidsVoice as educational and medical decision makers for named plaintiffs T.P., C.K., and W.R. Eli Zlokas, Shawn Gatto, and Celia Barlow no longer represent T.P., C.K., and W.R, respectively, in any legal capacity.

- (1) On or about May 7, 2012, the Parties submitted a Joint Motion for Preliminary Approval of a Proposed Settlement Agreement in this matter.
- (2) On May 21, 2012, the Court issued an Order granting this Joint Motion.
- (3) The proposed revised Settlement Agreement provides in part that the Notice of Lawsuit and Proposed Settlement shall be published in certain identified publications and that notice would be provided through various websites when possible. In addition, the proposed Settlement provided that individual notice would be provided to the last known address of reasonably identifiable potential class members when possible to obtain such an address.
- (4) Specifically, Paragraph 21 of the proposed Settlement Agreement provides in part as follows:

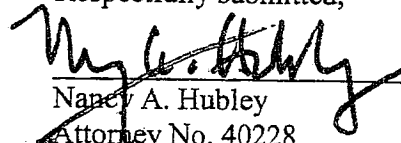
**Pre-Hearing Notices to Class Members.** Subject to the terms of the Settlement Agreement, an independent, third-party class action administrator (the "Settlement Administrator") shall provide Class members with the Notice attached hereto as Exhibit A-1 in the following manner:

  - (a) **Notice by Mail.** The Settlement Administrator shall mail the Notice of Lawsuit and Proposed Settlement substantially in the form filed with this Court as Exhibit A hereto to the last-known address of each reasonably identifiable potential Class member as reflected on Defendants' current and reasonably accessible records, whenever it is reasonably possible to obtain such an address. In addition, whenever it is reasonably possible to obtain such additional addresses, the Notice shall be sent to each child's child welfare placing agency, juvenile probation agency (if the child is probation-involved), and child advocate/guardian *ad litem*. The Class Notice shall be sent by first-class mail, postage prepaid, no later than 60 days following the entry of the Court's Order.
  - (b) **Proof of Mailing.** At or before the Fairness Hearing, the Settlement Administrator shall file with the Court a proof of mailing of the Class Notice.
  - (c) **Notice by Publication.** Notice of Lawsuit and Proposed Settlement shall be published in the following publications and/or through websites...
- (5) In compliance with the terms of the proposed Settlement Agreement, the Settlement Administrator, an independent third party, mailed the Notice of Lawsuit and Proposed Settlement in the form filed with this Court to the last-known address or addresses of all reasonably identifiable potential Class members when it was possible to obtain such an address or addresses. In addition, whenever reasonably possible, the Notice was sent to each child's caseworker, probation officer, Education Decision Maker and past foster parents to the extent known. Verification of these activities is set forth in the Proof of Mailing attached hereto as Exhibit "A".
- (6) Notice by publication was also accomplished in the manner prescribed in the proposed Settlement Agreement inasmuch as Notice of Lawsuit and Proposed Settlement was

published in the Tribune Review and McKeesport Daily News. A representative sample of the published Notice is attached hereto as Exhibit "B". In addition, the Notice was published on the websites of KidsVoice, Education Law Center, Juvenile Law Center, Auberle and McKeesport Area School District among others. Email notification and a request to publish the Notice on organization websites and through listservs was sent to the following: Allegheny County Children & Youth; Allegheny County Juvenile Probation Office; Pennsylvania Bar Association Children's Rights Committee listserv; Allegheny County Department of Human Services; University of Pittsburgh Child Welfare Training Program; Allegheny County Public Defender Office; National Association of Children's Counsel; Pennsylvania Youth Advisory Board; Allegheny County Bar Association; Juvenile Law Committee; and the Disability Rights Network. A representative sample of this email notification and website publication of the Notice is attached hereto as Exhibit "C".

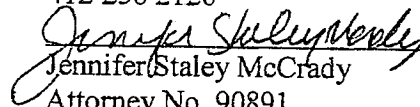
**WHEREFORE**, the Parties **NOW** request that the Court enter a finding that Pre-Hearing Notices to Class Members were provided in accordance with all terms and conditions set forth in the Settlement Agreement.

Respectfully submitted,



Nancy A. Hubley  
Attorney No. 40228

Maura McInerney  
Attorney No. 71468  
Education Law Center  
429 Fourth Avenue  
Pittsburgh, PA 15217  
412 258 2120

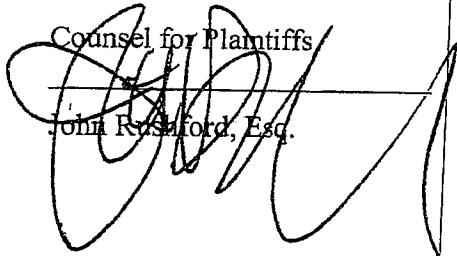


Jennifer Staley McCrady  
Attorney No. 90891

Scott Hollander  
Attorney No. 90891  
Amanda W. Shackelton  
Attorney No. 309704

KidsVoice  
437 Grant Street  
Suite 700  
Pittsburgh, Pa. 15219  
412-391-3100

Counsel for Plaintiffs



John R. Sanford, Esq.

Attorney No. 60029  
Dodaro Cambest & Associates  
1001 Ardmore Blvd.  
Pittsburgh, PA 15221-5223  
(412) 243-1600

Counsel for Defendant

**IN THE COURT OF COMMON PLEAS  
OF ALLEGHENY COUNTY, PENNSYLVANIA**

T.P., a minor, : CIVIL DIVISION  
Through his guardian, Eli Zlokas, and :  
Jennifer Staley McCrady as next friend, : GD No. 10-019236

C.K., a minor, : CLASS ACTION  
Through his guardian, Shawn Gatto<sup>1</sup>, and :  
Jennifer Staley McCrady as next friend, and :

W.R., a minor, :  
Through his guardian, Celia Barlow, and :  
Jennifer Staley McCrady as next friend, :

Individually and on behalf of all others similarly :  
situated, :

Plaintiffs,

vs.

MCKEESPORT AREA SCHOOL DISTRICT,

Defendant.

**PROOF OF MAILING**  
**AFFADIVIT OF JENNIFER FOX RABOLD**

I, Jennifer Fox Rabold, being duly sworn, hereby state:

1. On June 13, 2012, a true and correct copy of the Class Notice was sent by first-class mail, postage prepaid, to the last known address of each reasonably identifiable class member whenever it was reasonably possible to obtain such addresses. For some potential class

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<sup>1</sup> The complaint was filed on October 14, 2010. Since then, changes in juvenile court procedures have resulted in the court appointments of KidsVoice as educational and medical decision makers for named plaintiffs C.K. and W. R. Shawn Gatto and Celia Barlow no longer represent C.K. and W.R., respectively, in any legal capacity.

members, it was impossible to obtain a last known address despite all diligent efforts. For other potential class members, different last known addresses were obtained from multiple sources and the Class Notice was sent to all multiple last known addresses. The Class Notice was sent to as many as three last-known addresses for each reasonably identifiable class member.

2. I certify that, whenever it was reasonably possible to obtain such addresses, a true and correct copy of the Class Notice was sent to the last known address of each reasonably identifiable class member as well as each child's County & Youth child welfare professional, child welfare placing agency, juvenile probation agency and child advocate/guardian *ad litem*. The Class Notice was sent by first-class mail, postage prepaid, within 60 days following the Court Order, which was dated May 21, 2012. Proof of Mailing is attached hereto as Exhibit "A".

3. I certify that between June 29, 2012 and July 5, 2012 a true and correct copy of the Class Notice was also sent by first-class mail, postage prepaid, to the heads of nine different child welfare placing agencies and four different juvenile probation agencies. These agencies were: Allegheny County Children, Youth and Families – Central Region; Allegheny County Children, Youth and Families – East Region; Allegheny County Children, Youth and Families – Mon Valley Region; Allegheny County Children, Youth and Families – North Region; Allegheny County Children, Youth and Families – South Region; Allegheny Children, Youth and Families – Adoption Division; Fayette County Children & Youth Services; Washington County Children and Youth Services; Westmoreland County Children's Bureau; Allegheny County JPO Administration Department; Butler County Juvenile Probation Services;

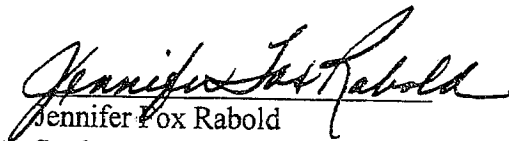


Washington County Probation Services – Juvenile Probation; Westmoreland County Juvenile Probation.

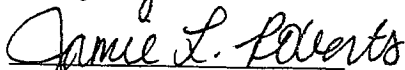
4. Each of the above-named agencies had been identified by the Parties as a service provider for one or more identifiable class members. Enclosed with each agency's Class Notice was a packet of individual sealed envelopes, each containing a true and correct copy of the Class Notice, addressed to each identifiable class member believed to be serviced by that particular agency. Also enclosed with each agency's Class Notice was a cover letter, requesting assistance in disseminating the letters and listing every class member believed to be serviced by the particular agency. The Class Notice was sent to every single identifiable class member via this method, at either one or two agencies.

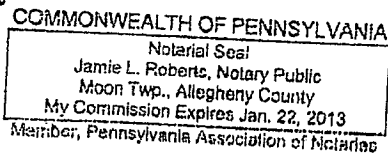
5. A representative sample of the mailing to child welfare agencies is attached hereto as Exhibit "B".

Date: August 9, 2012

  
Jennifer Fox Rabold  
Settlement Administrator

Sworn to and subscribed  
before me this 9<sup>th</sup> day  
of August, 2012.

  
(Notary Public)





# TRIB TOTAL MEDIA LEGAL ADVERTISING

## Proof of Publication of Notice in The Tribune-Review Under the Act of July 9, 1976, P. L. 877, No. 160

Commonwealth of Pennsylvania  
County of Westmoreland ) SS:

**DAIYNN SCIOYTO**, Classified Advertising Manager of the Trib Total Media, Inc., a corporation of the Commonwealth of Pennsylvania with places of business in Greensburg, Westmoreland County, Pennsylvania and Pittsburgh, Allegheny County, Pennsylvania, being duly sworn, deposes and says that the Tribune-Review is a daily newspaper circulated in Southwestern Pennsylvania. Said corporation was established in the year 1924. A copy of the printed notice of publication is attached hereto exactly as the same was printed and published in the regular editions of the said daily newspaper on the following dates, viz:  
LEGAL# 535343, RE: CLASS ACTION SETTLEMENT NOTICE-AUBERLE GROUP HOME; 10<sup>TH</sup> DAY OF AUGUST, 2012.

Affiant further deposes that s/he is an officer duly Authorized by the Trib Total Media, Inc., publisher of The Tribune-Review, to verify the foregoing statement under oath and also declares that affiant is not interested in the subject matter of the aforesaid notice of publication, and that all allegations in the foregoing statement as to time, place and character of publication are true.

*[Signature]*  
Classified Advertising Manager,  
Trib Total Media, Inc.

Sworn to and subscribed before me this  
10<sup>TH</sup> day of AUGUST, 2012.

*[Signature]*  
Notary Public

COMMONWEALTH OF PENNSYLVANIA  
Notarial Seal  
JoAnn M. Callahan, Notary Public  
City of Greensburg, Westmoreland County  
My Commission Expires July 1, 2016  
MEMBER PENNSYLVANIA ASSOCIATION OF NOTARIES

### Statement of Advertising Costs

**DAVID M. SEROPIAN, BOARD SECRETARY  
MCKEESPORT AREA SCHOOL DISTRICT  
3590 O'NEIL BLVD.  
MCKEESPORT, PA 15132**

To Trib Total Media, Inc.	
For Publishing the notice or advertisement attached hereto on the above stated dates	\$291.90
Printing Same	\$ 0
Total	\$ 291.90

### Publisher's Receipt

The Trib Total Media, Inc., publisher acknowledges a receipt of the aforesaid advertisement fully paid.  
Trib Total Media Inc., Publisher  
of The Tribune-Review, a Daily Newspaper.

**NOTICE OF CLASS ACTION SETTLEMENT**  
Attention all youth who lived at Auberie Group Homes in McKeesport at anytime from October 14, 2008 to January 1, 2011 and attended school in the "alternative education" building in the "transition classroom" for Auberie students. (This classroom was located down the hill from Auberie and sometimes called "East End Academy.") You qualify as a member of Plaintiff Class and may be entitled to a variety of free educational services, training and other educational opportunities as a result of a lawsuit titled, T.P. v. McKeesport Area School District, Case No: GD-10-019238 filed in Allegheny County Court of Common Pleas.

A hearing about this settlement will be held on August 23, 2012 at 10:00 a.m. before Judge R. Stanton Wetick, Jr. 818 City-County Building Pittsburgh PA 15219. The hearing is to discuss the Parties' proposed settlement. Individuals have a right to the challenge the proposed agreement. You also have the right to exclude yourself from the class and not be a part of a settlement. If you do not request to be excluded, the settlement approved by the Court will bind all class members.

If the Settlement is approved, you will have 2 years to tell us you are a member of the class and would like educational services. The sooner you identify yourself, the easier it will be to access your benefits. To learn more about this Settlement or to identify yourself or a child in your care as a potential class member for future communication, contact:

Jennifer Fox Rabold, Settlement Administrator  
Phone: 800.643.8921, or Email: MASDFund@fedex.com or by letter to:  
McKeesport Settlement c/o Jennifer Fox Rabold  
Senior Counsel-Legal Division,  
FedEx Ground Package System, Inc.  
1000 FedEx Drive Moon Township, PA 15108  
You can review the proposed settlement on line at Education Law Center [www.elpa.org](http://www.elpa.org); KidsVoice [www.kidsvoice.org](http://www.kidsvoice.org) or by calling the Settlement Administrator listed above, 535343(8-10-12)

RECEIVED  
AUG 13 2012

EXHIBIT  
J B-1



# TRIB TOTAL MEDIA LEGAL ADVERTISING

## Proof of Publication of Notice in The Tribune-Review Under the Act of July 9, 1976, P. L. 877, No. 160

Commonwealth of Pennsylvania  
County of Westmoreland } SS:

DALYNN SCIOTTO, Classified Advertising Manager of the Trib Total Media, Inc., a corporation of the Commonwealth of Pennsylvania with places of business in Greensburg, Westmoreland County, Pennsylvania and Pittsburgh, Allegheny County, Pennsylvania, being duly sworn, deposes and says that the Tribune-Review is a daily newspaper circulated in Southwestern Pennsylvania. Said corporation was established in the year 1924. A copy of the printed notice of publication is attached hereto exactly as the same was printed and published in the regular editions of the said daily newspaper on the following dates, viz: LEGAL# 5353343, RE: CLASS ACTION SETTLEMENT NOTICE-AUBERLE GROUP HOME; 10<sup>TH</sup> DAY OF AUGUST, 2012.

Affiant further deposes that s/he is an officer duly Authorized by the Trib Total Media, Inc., publisher of The Tribune-Review, to verify the foregoing statement under oath and also declares that affiant is not interested in the subject matter of the aforesaid notice of publication, and that all allegations in the foregoing statement as to time, place and character of publication are true.

*Dalynn Sciotto*  
Classified Advertising Manager,  
Trib Total Media, Inc.

Sworn to and subscribed before me this  
10<sup>TH</sup> day of AUGUST, 2012.

*JoAnn M. Callahan*  
Notary Public

COMMONWEALTH OF PENNSYLVANIA  
Notarial Seal  
JoAnn M. Callahan, Notary Public  
City of Greensburg, Westmoreland County  
My Commission Expires July 1, 2016  
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

### Statement of Advertising Costs

DAVID M. SEROPIAN, BOARD SECRETARY  
MCKEESPORT AREA SCHOOL DISTRICT  
3590 O'NEIL BLVD.  
MCKEESPORT, PA 15132

To Trib Total Media, Inc.  
For Publishing the notice or advertisement attached  
hereto on the above stated dates \$291.90  
Probating Same \$ 0  
Total \$ 291.90

### Publisher's Receipt

The Trib Total Media, Inc., publisher  
acknowledges a receipt of the aforesaid advertisement  
fully paid.

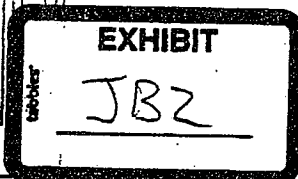
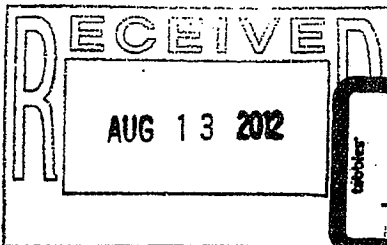
Trib Total Media Inc., Publisher  
of The Tribune-Review, a Daily Newspaper.

**NOTICE OF CLASS ACTION SETTLEMENT**  
Attention all youth who lived at Auberle Group Homes in  
McKeesport at anytime from October 14, 2008 to January 1, 2011  
and attended school in the "alternative education" building in the "transition  
classroom" for Auberle students. (This classroom was located  
down the hill from Auberle and sometimes called "East End Academy.")  
You qualify as a member of Plaintiff Class and may be entitled to a variety  
of free educational services, training, and other educational opportunities  
as a result of a lawsuit titled, T.P. v. McKeesport Area School  
District, Case No. GD-10-019236 filed in Allegheny County Court of  
Common Pleas.

A hearing about this settlement will be held on August 23, 2012 at  
10:00 a.m. before Judge R. Stanton Wettick, Jr. 818 City-County Building  
Pittsburgh PA 15219. The hearing is to discuss the Parties' proposed  
settlement. Individuals have a right to the challenge the  
proposed agreement. You also have the right to exclude yourself from  
the class and not be a part of a settlement. If you do not request to be  
excluded, the settlement approved by the Court will bind all class members.

If the Settlement is approved, you will have 2 years to tell us you are  
a member of the class and would like educational services. The sooner  
you identify yourself, the easier it will be to access your benefits.  
To learn more about this Settlement or to identify yourself or a child in  
your care as a potential class member for future communication, contact:

Jennifer Fox Rabold, Settlement Administrator  
Phone: 800.543.8921, or Email: MASDFund@fedex.com or by letter to:  
McKeesport Settlement c/o Jennifer Fox Rabold  
Senior Counsel-Legal Division,  
FedEx Ground Package System, Inc.  
1000 FedEx Drive Moon Township, PA 15108  
You can review the proposed settlement on line at Education Law  
Center [www.elc-pa.org](http://www.elc-pa.org); KidsVoice [www.kidsvoice.org](http://www.kidsvoice.org) or obtain a copy  
by calling the Settlement Administrator listed above.  
5353343(8-10-12)





# LEGAL ADVERTISING

## Proof of Publication of Notice in The Daily News

Under the Act of July 9, 1976, P.L. 877, No. 160

Commonwealth of Pennsylvania

County of Allegheny } SS:

ROBERT HAMMOND, Division Manager of the Trib Total Media, Inc., a Corporation of the Commonwealth of Pennsylvania with places of business in Greensburg, Westmoreland County, Pennsylvania and Pittsburgh, Allegheny County, Pennsylvania, being duly sworn, deposes and says that the Daily News is a daily newspaper circulated in Allegheny & Westmoreland Counties, Pennsylvania, and elsewhere, published in the City of McKeesport, Allegheny County, Pennsylvania, established July 1, 1884, and issued every day, except Sunday, since that date. A copy of the printed notice of publication is attached hereto exactly as the same was printed and published in the regular editions of the said newspapers on the following dates,

viz: LEGAL# 5353717, RE: OFFICIAL NOTICE NOTICE OF CLASS ACTION SETTLEMENT Attention on 08/10/12

Affiant further deposes that she/ he is an officer duly Authorized by the Trib Total Media, Inc., Publisher of The Daily News, to verify the foregoing statement under oath and also declares that affiant is not interested in the subject matter of the aforesaid notice of publication, and that all allegations in the foregoing statement as to time, place and character of publication are true.

Division Manager  
Trib Total Media, Inc.

Sworn to and subscribed before me this  
10 day of Aug, 2012

Notary Public

COMMONWEALTH OF PENNSYLVANIA  
Notarial Seal  
Bonnie Boggan, Notary Public  
Liberty Boro, Allegheny County  
My Commission Expires Jan. 28, 2013  
Member, Pennsylvania Association of Notaries

### Statement of Advertising Costs

MCKEESPORT AREA SCHOOL DISTRICT  
3590 O'NEIL BLVD  
MCKEESPORT, PA 15132

To Trib Total Media, Inc.	
For Publishing the notice or advertisement attached hereto on the above stated dates	\$ 248.00
Probating Same	\$
Total	\$ 248.00

### Publisher's Receipt for Adve

The Trib Total Media, Inc., publisher of The Daily News, a newspaper of the aforesaid advertising and publication costs, and certifies the same

Trib Total Media Inc., Publisher  
of The Daily News, a Newspaper.

By \_\_\_\_\_

**OFFICIAL NOTICE  
NOTICE OF CLASS ACTION SETTLEMENT**

Attention all youth who lived at Auberie Group Home in McKeesport, at anytime from October 14, 2008 to January 1, 2011 and attended school in the "alternative education" building in the "transillon classroom" for Auberie students. (This classroom was located down the hill from Auberie and sometimes called "East End Academy")

You qualify as a member of Plaintiff Class and may be entitled to a variety of free educational services, training and other educational opportunities as a result of a lawsuit titled, T.P. v. McKeesport Area School District, Case No. GD-10-019236 filed in Allegheny County Court of Common Pleas.

A hearing about this settlement will be held on August 23, 2012 at 10:00 a.m. before Judge R. Stanton Weidick, Jr. 818 City-County Building, Pittsburgh, PA 15218. The hearing is to discuss the Parties' proposed settlement. Individuals have a right to challenge the proposed agreement. You also have the right to exclude yourself from the class and not be a part of a settlement. If you do not request to be excluded, the settlement approved by the Court will bind all class members.

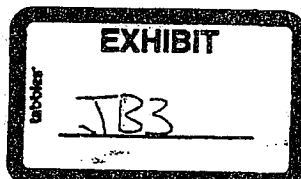
If the Settlement is approved, you will have 2 years to tell us you are a member of the class and would like educational services. The sooner you identify yourself, the easier it will be to access your benefits.

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Jennifer Fox Rabold, Settlement Administrator  
Phone: 800-643-8921 or Email: MASDFund@fedex.com  
or by letter to:  
McKeesport Settlement c/o Jennifer Fox Rabold  
Senior Counsel-Legal Division  
FedEx Ground Package System, Inc.  
1000 FedEx Drive, Moon Township, PA 15108

You can review the proposed settlement on line at Education Law Center [www.elpc-pa.org](http://www.elpc-pa.org), KidsVoice, [www.kidsvoice.org](http://www.kidsvoice.org) or obtain a copy by calling the Settlement Administrator listed above.

LEGAL# 5353717 (8/10/2012)



# Protecting Children's Rights

**KidsVoice** provides a **voice of hope**, a **voice for rights** and a **voice of experience** for abused, neglected and at risk children who otherwise cannot speak for themselves. KidsVoice vigilantly guides each child through the court process and ensures that every agency involved meets the full range of the child's needs. Through in-depth investigation, KidsVoice delivers informed recommendations and advocates in court and beyond for the child's best interests making a dramatic difference in the lives of children, parents and the community at large. KidsVoice ensures that the most appropriate services are in place to protect children from future harm, with the ultimate goal of providing a safe and permanent home for every child.

## Features

- How To Help
- Report Child Abuse
- IL Advocacy Group
- Organization Links
- KidsVoice Photos
- Employment
- Consulting/Software
- Overview
- Consulting Services
- Software

### NOTICE OF CLASS ACTION SETTLEMENT

You have received this notice because you may be entitled to educational services as a member of the plaintiff class in the class action lawsuit *T.P. v. McKeesport Area School District*, Case No. GD-10-019236.

**Did you live at the Auberle Group Home at any time from October 14, 2008 to January 1, 2011?**

*Click here for more information*

### PROPOSED SETTLEMENT AGREEMENT

This Settlement Agreement is made this 20th day of January, 2012 by and between the Named Plaintiffs T.P., C.K., and W.R. ("Named Plaintiffs") through their Counsel, Education Law Center and KidsVoice, in their own right and on behalf of other similarly situated (hereinafter referred to as "Class Members" or "Auberle Class"), and Defendant McKeesport Area School District (referred to as "MASD" or "District").

*Click here for more information*

Donate



United Way of Allegheny County

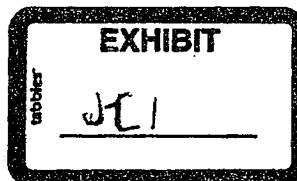


### Introducing AnyCase

Case management software, implemented across the country, created by KidsVoice. Grant funding available for up to five additional sites, deadline 3/31.

[Click here to visit AnyCase.org](#)

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CHILD WELFARE EDUCATION

## Notice of Proposed Settlement Agreement in T.P. v. McKeesport is Good News for the Education of Children in Foster Care

JUNE 10, 2012

Youth in foster care living in a group home have the right to attend their local public school and must be treated in the same manner as children who reside with their parents. In 2010, our colleagues at Education Law Center and KidsVoice filed a lawsuit in the Court of Common Pleas challenging the practice of educating children placed in Aubertle group home in a separate classroom in the District's alternative education building. Education Law Center and KidsVoice have just finalized a proposed class action Settlement Agreement with McKeesport School District in this case. The proposed settlement will result in additional educational resources and services for students who were impacted by the District's policies. The classroom was closed in December 2010 and the final settlement will be discussed at a public hearing on August 23, 2012.

To learn more about the settlement and whether someone you know may be a potential Class Member, read the settlement and the notice to join the class action.

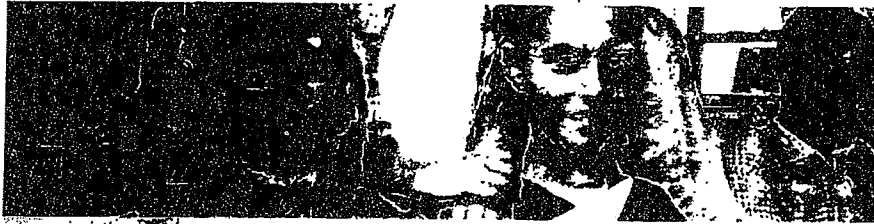
Related Content

[SETTLEMENT AND NOTICE TO JOIN CLASS ACTION](#)



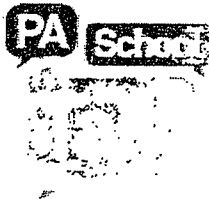


Education Law Center *fighting for our public schools*



ELC is a non-profit legal advocacy and education organization, dedicated to ensuring that all of Pennsylvania's children have access to a quality public education.

## News & Action Items



Here's what's being discussed on PA School Talk this week:

[New! English Language Learner Survey Result](#)

### • Right-to-Know Ruling Now Precedent

Commonwealth Court Judge Dan Pelligrini ruled last week in support of a motion filed by the Education Law Center on behalf of the Philadelphia Public School Notebook to report a previous ruling in a right-to-know case involving public access to School Reform Commission resolutions.

The ruling is now a legal precedent, meaning that it will now be treated as a precedent in similar cases in Pennsylvania. "Winning the initial case helped the Notebook and Philadelphians," said Law Center attorney David Lapp. "Having it reported helps all Pennsylvania citizens." [Read more...](#)

### • Marnie Kaplan Joins Law Center as Emerging Leaders Fellow

The Education Law Center welcomes Marnie Kaplan as the 2012-13 Stoneleigh Emerging Leaders Fellow. Her project focuses on improving accountability and outcomes in Pennsylvania's system of Alternative Education for Disruptive Youth (AEDY). [Read more...](#)

### • Ignoring Funding Problems Equals Bad Education Policy

The Education Law Center, along with the [Public Interest Law Center of Philadelphia](#), [Education Voters Pennsylvania](#), and the [Pennsylvania League of Urban Schools](#), recently published an Op-Ed in The Philadelphia Inquirer that calls out city and state leaders for ignoring the fundamental funding inequities that plague Philadelphia and many other school districts throughout the Commonwealth.

[Read the full Op-Ed and data summary](#) | [Read the published version](#)

### Concerned about Pennsylvania's Education Agenda?

So are we.

Take a look at [our ideas on how to deal with this year's big issues in public education](#).

If there's a proposal that's appealing, tell us why. If there's an issue we're not addressing, tell us about that, too. [Read more...](#)

### Connect with us:

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[top](#)

- **Settlement Reached in Chester Upland; Schools Remain Open; Special Education Services Improved**

A settlement agreement has been reached in the Public Interest Law Center of Philadelphia's (PILCOP) case involving the Chester Upland School District and the PA Department of Education. The agreement allows the school district to remain open and provides for the improvement of special education services for students with disabilities. Parents of a student with a disability who attends school in the Chester Upland School District, have the chance to review the settlement agreement and provide testimony before the agreement is approved. For more details, [click here](#).

- **Law Center Testimony: Examining Cuts to Education Funding and Programs**

What's the best way to look at cuts to education funding and programs in Pennsylvania? That was the question Education Law Center Director of Policy Advocacy Baruch Kinfisch answered during his July 17 testimony at the House Democratic Policy Committee hearing.

[Read the complete testimony.](#)

- **Good News for Students Experiencing Homelessness**

Governor Corbett recently signed a bill creating a statewide taskforce on children experiencing homelessness. The new law mandates the taskforce conduct a study, issue a report, and make recommendations to address the educational needs of all children experiencing homelessness — including preschoolers (ages 3-5 year) and those who are likely to remain unidentified in communities throughout Pennsylvania.

The Taskforce will provide new critical data and guidance to improve educational outcomes for this exceptionally vulnerable student population. Read [SB 157](#).

- **Major Setback for Special Ed Reform Bill**

Our special education reform legislation, Senate Bill 1115, has become an unfortunate example of how the most vulnerable students always lose when politics interferes with education policy. SB 1115 was not adopted with the annual budget by the June 30 deadline. The General Assembly will consider the special education reforms later in 2012, after the summer recess. The Corbett Administration may have different ideas for special education reforms and may not accept the core principles reflected in SB 1115.

Although this is a major disappointment, parent advocates and disability groups are encouraged to stay engaged to overcome the obstacles to improving special education policy and practices. To learn more, [click here](#).

- **Notice of Proposed Settlement Agreement in *T.P. v. McKeesport*: Good News for Children in Foster Care**



Youth in foster care living in a group home have the right to attend their local public school and must be treated in the same manner as children who reside with their parents. In 2010, the Education Law Center and KidsVoice filed a law suit in the Court of Common Pleas challenging the practice of educating children placed in Auberle group home in a separate classroom in the District's alternative education building.

ELC and KidsVoice have just finalized a proposed class action Settlement Agreement with McKeesport School District in this case. The proposed settlement will result in additional educational resources and services for students who were impacted by the District's policies. The classroom was closed in December 2010 and the final settlement will be discussed at a public hearing on Aug. 23, 2012.

Learn more about the settlement and whether someone you know may be a potential Class Member: [Settlement and the notice to join the class action.](#)

- **Law Center Partnership Examines School Library Impact**

The Education Law Center and the Pennsylvania Association of School Librarians are partnering with a group of researchers to examine the needs of 21st century school library programs in Pennsylvania.

[Read more...](#)

- **On the Docket: ELC's Recent Cases**

The Education Law Center's recent filings can be found on the [Our Cases](#) page. A brief summary and a copy of each filing are available. For more information about a particular case, contact the attorney listed in the filing.

[Read more...](#)

- **FISA Foundation Awards ELC Grant to Improve Education Advocacy**

The FISA Foundation recently approved a grant to the Education Law Center for continued advocacy on behalf of children with disabilities. With the support of the FISA Foundation in 2011, the Law Center's Legal Advocacy Project for Children with Disabilities continued to demonstrate how well-informed, supported and engaged parents and advocates can improve opportunities to learn for students with disabilities — both through individual advocacy and through collaborative systems reform.

[Read the 2011 report](#)

### **Also in the news:**

*U.S. Department of Education releases final regulations for the early intervention program under Part C of the IDEA.*

[Read more...](#)

*Updates from the English Language Learner Task Force*

[Read more...](#)

*Pennsylvania's Best Investment: Public Education*

[Read more...](#)

### Publications and More Help

- [Fairness in School Discipline in Pennsylvania: A Guide for Attorneys and Advocates Who Represent Students](#)
- [Getting Information About Your School: A Guide to Pennsylvania Laws on Open Meetings and Public Records](#)
- [Basics of Special Education Law Brochure for parents](#)
- [Right to Special Education Manual \(2009A\)](#)
- [El Derecho a Educacion Especial en Pennsylvania](#), a Spanish-language version of ELC's 2009 guide, *The Right to Special Education in Pennsylvania*, is now available (translation courtesy of the Disability Rights Network).
- [Training Request Form](#).
- [Browse and download ELC publications and training materials.](#)
- [Have a question about ELC services? Check our Frequently Asked Questions page for help.](#)
- [Find other agencies](#) that can help you.

### Calendar

Below is the Events Calendar from [PA School Talk](#), where members can add their own events. Full details, including RSVP information, are available by clicking the event listing.

[Latest Events - PA School Talk](#)

#### The 2012 Arts and Education Symposium

A project of The Education Policy and Leadership Center ([epic.org](#)), a not-for-profit operating since 1998 to enhance educational opportunity for Pennsylvania citizens of all ages.

Time: [October 11, 2012](#) from 8am to 4:30pm  
Location: Harrisburg, PA  
Website or Map: <http://www.aei-pa.org>  
Phone: 717-260-9900  
[Export to Outlook or iCal \(.ics\)](#)


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7/23/12

Education Law Center

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**Hubley, Nancy**

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**From:** Hubley, Nancy  
**Sent:** Wednesday, August 22, 2012 1:20 PM  
**To:** Hubley, Nancy  
**Subject:** FW: We need your help with notice for youth placed at Auberle for a class action lawsuit  
**Attachments:** NOTICE OF CLASS ACTION SETTLEMENT.pdf  
**Importance:** High

Sample Notice:

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**From:** Staley, Jennifer  
**Sent:** Monday, June 18, 2012 2:41 PM  
**To:** Staley, Jennifer; Hubley, Nancy  
**Cc:** Pokempner, Jennifer; Sherry, Lynne; Murphy, Samantha A.; Aquino, Nancy; Wolfson, Alison; Samulski, Alexis; Amy Hardy; Becky Haberstroh; Burton, Ondrea L.; Berry, Duane; Bart Solarczyk; Bonnie.Bloch@allegHENYcounty.us; Carrie Jarvis; Chris Smith; Cathy Volponi; Carlino, Russell; Stoltz, Cynthia; Colleen Coudriet; Chambers, Lisa; Dorie Schnippert; Dalton, Erin; Morrison, Danielle; Dunbar, Ryan; Eleanor Bush; Elizabeth Stephenson; Erin Barr; McWilson, Frank; Freas, Steve; Gerlach, Traci; Gray, Sharlene; Hannah, JoAnn; John Lydon; Lee, Justin M; Hergenreder, Jeni; Hughes, Kristen; Koss, Ruth Ann; Louann Bell; laura whiteman; Napoleon, Lynne; 'Landers, Marsha'; Melissa Protzek; Quinn, Patrick; Wittman, Rob; Wong, Rebecca; Biasca, Sharon; Sturdivant, Marcia; 'Eidson, Stephen'; John Bollie (John.Bollie@AlleghenyCounty.us); McInerney, Maura; Shackelton, Amanda; Budd, Jonathan; Hollander, Scott  
**Subject:** We need your help with notice for youth placed at Auberle for a class action lawsuit  
**Importance:** High

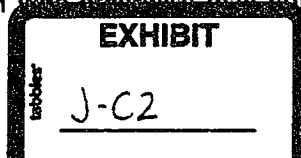
Dear Friends of KidsVoice and Education Law Center:

We need your help. We would appreciate your assistance in helping us notify potential class members about their rights arising from a lawsuit filed by KidsVoice and the Education Law Center. The lawsuit was filed on October 14th, 2010, asserting the rights of students placed at Auberle and educated by the McKeesport School District in separate classrooms. KidsVoice, the Education Law Center, and the McKeesport Area School District have filed joint settlement documents which will be discussed at a public hearing on August 23, 2012 at 10:00 a.m. The classroom was closed in December 2010.

Students who are class members will have access to supplemental educational opportunities and services. Student class members with disabilities will also receive compensatory education services. Depending on the length of time the student spent in the classroom, deprived of the educational opportunities of the McKeesport School District, the student will be entitled to educational services that include remedial and other services they may need to graduate from high school or to pursue vocational or post-secondary education.

Pursuant to the settlement agreement and to Pennsylvania law, class members must be notified before the settlement is approved by the Court and again after the settlement is approved. Notice will be mailed directly to the last known addresses of class members whenever possible. We have also agreed to publish the notice in various venues, which will greatly extend the reach of the notice and increase the likelihood that class members will come forward and take advantage of the settlement.

Attached is a version of the class member notice suitable for publication. **Would you be willing to publish this notice on your website in some way, and/or to send the notice out to any email lists you employ? This would hopefully require minimal effort, but could mean that children who otherwise may not know about the lawsuit will instead come**



IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA  
CIVIL DIVISION

T.P., a minor,  
through his guardian Eli Zlokas<sup>1</sup> and  
Jennifer Staley McCrady  
as next friend

C.K., a minor,  
through his guardian Shawn Gatto  
and  
Jennifer Staley McCrady  
as next friend

W.R., a minor,  
through his guardian Celia Barlow  
and  
Jennifer Staley McCrady  
as next friend

Individually and on behalf of all others  
similarly situated

Plaintiffs,

v.

MCKEESPORT AREA SCHOOL DISTRICT,

Defendant.

G.D. 10-019236  
Class Action

JOINT MOTION FOR FINAL APPROVAL OF  
PROPOSED CLASS ACTION SETTLEMENT AGREEMENT

Named Plaintiffs T.P., C.K., and W.R. and Defendant McKeesport Area School District

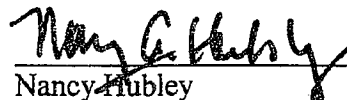
<sup>1</sup> The complaint was filed on October 14, 2010. Since then, changes in juvenile court procedures have resulted in the court appointments of KidsVoice as educational and medical decision makers for named plaintiffs C.K., and W.R. Eli Zlokas, Shawn Gatto, and Celia Barlow no longer represent T.P., C.K., and W.R., respectively, in any legal capacity.

COURT OF COMMON PLEAS

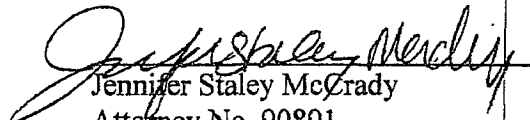
ALLEGHENY COUNTY

("District") (collectively the "Parties"), by and through their undersigned attorneys, now move this Court for an Order granting final approval of the proposed Class Action Settlement Agreement previously filed with the Court. A proposed Order is attached hereto.

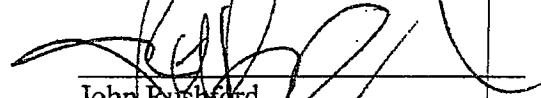
Respectfully submitted,



Nancy Hubley  
Attorney No. 40228  
Maura McInerney  
Attorney No. 71468  
Deborah Gordon Klehr  
Attorney No. 95071  
Education Law Center  
1315 Walnut Street, Suite 400  
Philadelphia, Pa. 19107  
215-238-6970, ext. 307



Jennifer Staley McCrady  
Attorney No. 90891  
Scott Hollander  
Attorney No. 77834  
Amanda W. Shackelton  
Attorney No. 309704  
KidsVoice  
437 Grant Street  
Suite 700  
Pittsburgh, Pa. 15219  
412-391-3100 ext. 167  
Counsel for Plaintiff



John Rushford  
Attorney No. 60029  
Dodaro Cambest & Associates  
1001 Ardmore Blvd.  
Pittsburgh, PA 15221-5223  
(412) 243-1600

Counsel for Defendant

Date: August 23, 2012

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA  
CIVIL DIVISION**

T.P., a minor,  
through his guardian Eli Zlokas and  
Jennifer Staley McCrady  
as next friend

C.K., a minor,  
through his guardian Shawn Gatto  
and  
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as next friend

W.R., a minor,  
through his guardian Celia Barlow  
and  
Jennifer Staley McCrady  
as next friend

Individually and on behalf of all others  
similarly situated

Plaintiffs,

v.

MCKEESPORT AREA SCHOOL DISTRICT,

Defendant.

G.D. 10-019236  
Class Action

**ORDER GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

AND NOW, this 23 day of August, 2012, upon consideration of the **Joint Motion for Preliminary Approval of Proposed Class Action Settlement Action** and for the reasons stated on the record this day during the Fair Hearing of this matter, it is hereby **ORDERED** that the **Joint Motion for Preliminary Approval of Proposed Class Action Settlement Action** which this Court treats as a motion for final approval of the class action settlement, is hereby **GRANTED**.

*which is attached as Exhibit 1*

The class action settlement agreement is hereby **APPROVED**.

The Court makes the following findings of fact and conclusions of law under Pennsylvania Rules of Civil Procedure 1702, 1708, and 1709 in compliance with the requirements of Pa. R. Civ. P. 1710(a).

1. The certified class is defined as follows: “all children and youth who resided at Auberle Group Home at any time beginning on October 14, 2008 to the present who were educated in [McKeesport Area School District] classrooms designated exclusively or predominantly for students who resided in the Auberle Group Home, also known as “transition rooms” or “Auberle-student classrooms” (hereinafter “Auberle Class”).
2. Certification of the class is appropriate based on the following findings:
  - i. The Court finds that all elements of class certification are satisfied.
  - ii. Named Plaintiffs T.P., C.K. and W.R. are past or current residents of the Auberle group home who are excluded from attending the District’s regular public schools and instead were educated in separate classrooms designated exclusively or predominantly for residents of the Auberle group home, known as “Auberle-student classrooms.”
  - iii. There are over one hundred (100) students who have resided at Auberle and were educated in classrooms located separate and apart from the District’s regular education school in “Auberle-student classrooms.” This large number of past students makes joinder of all members impracticable.
  - iv. There are questions of law and fact common to the class, such as whether the District’s practice of restricting Plaintiffs’ access to regular public



school classrooms violates state law, 24 P.S. § 13-1306, the Equal Protection Clause of the United States Constitution, and other state and federal special education laws.

- v. The claims presented by named Plaintiffs are typical of the claims of the proposed class and the injunctive relief sought is based on the same unlawful conduct.
- vi. Because the class is composed of children and youth who were, are currently or have been in dependent care, many potential class members may lack the means to assert an independent action. Moreover, due to the large number of potential class members, the risks of separate actions and/or other litigation may be significant in the absence of certification of the class. For these reasons, the proposed class is large enough to justify the effort of maintaining this suit as a class action.
- vii. The representative Plaintiffs will fairly and adequately assert and protect the interests of the class, in that their attorneys are experienced in litigation in the areas of education law; the representative Plaintiffs have no conflicts of interest in the maintenance of this class action; and, because legal services are being provided *gratis*, there is no issue of adequacy of financial resources on the part of the representative Plaintiffs.
- viii. A class action is a fair and efficient method for adjudication of this controversy inasmuch as this class action addresses systemic legal violations that could not be fully remedied via individual lawsuits.

- ix. Based on the forgoing findings, pursuant to Pa. R. Civ. P. 1702, 1708, and 1709, certification of the class is warranted as the proposed class meets the requirements of numerosity, commonality, typicality, and fair and adequate representation, and a class action is a fair and efficient method of fully resolving this matter.
- x. Named Plaintiffs T.P., C.K., and W.R. are hereby designated as class representatives.
- xi. Plaintiffs' counsel is appointed as counsel for the Class.
3. The Court also approves the proposed settlement on the ground that it falls within the range of reasonableness and possible approval as to its terms will secure an adequate advantage for the class in return for the surrender of litigation rights. The interests of justice, fairness and judicial economy will be served by granting final approval of this Settlement Agreement.
4. The proposed Notice of Settlement Agreement is approved inasmuch as it presents a fair recital of the general subject matter and Settlement Agreement terms.
5. The Notice of final Settlement Agreement shall be mailed to all reasonably identifiable potential Class Members in a manner consistent with the provisions of the Settlement Agreement.

The Complaint is hereby **DISMISSED** with prejudice, except that the Court shall retain jurisdiction for purposes of enforcement of the Settlement Agreement in accordance with its terms. The Department of Court Records shall close this case.

BY THE COURT:

  
\_\_\_\_\_  
J.

IN THE COURT OF COMMON PLEAS  
OF ALLEGHENY COUNTY, PENNSYLVANIA  
CIVIL DIVISION

T.P., a minor,  
through his guardian Eli Zlokas and  
Jennifer Staley McCrady  
as next friend

C.K., a minor,  
through his guardian Shawn Gatto<sup>1</sup>  
and  
Jennifer Staley McCrady  
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W.R., a minor,  
through his guardian Celia Barlow  
and  
Jennifer Staley McCrady  
as next friend

Individually and on behalf of all others  
similarly situated

Plaintiffs,

v.

MCKEESPORT AREA SCHOOL DISTRICT,

Defendant.

G.D. No. 10-019236

~~PROPOSED~~ SETTLEMENT AGREEMENT

This Settlement Agreement is made this 20th day of January, 2012 by and between the  
Named Plaintiffs, T. P., C.K., and W.R. ("Named Plaintiffs") through their counsel, Education

<sup>1</sup> The complaint was filed on October 14, 2010. Since then, changes in juvenile court procedures have resulted in the court appointments of KidsVoice as educational and medical decision makers for named plaintiffs C.K. and W.R. Shawn Gatto and Celia Barlow no longer represent C.K. and W.R, respectively, in any legal capacity.

*A. Stodt 1*

Law Center and KidsVoice, in their own right and on behalf of others similarly situated (hereinafter referred to "Class Members" or "Auberle Class"), and Defendant McKeesport Area School District (referred to as "MASD" or "District").

**WHEREAS**, Named Plaintiffs and Class Members are defined as "all children and youth who resided at Auberle Group Home at any time from October 14, 2008 to the present and were educated in classrooms designated exclusively or predominantly for students who resided in the Auberle Group Home, known as 'transition rooms' or 'Auberle-student classrooms'" (hereinafter "Auberle Class");

**WHEREAS**, Named Plaintiffs filed a Complaint against the District on October 14, 2010, alleging that the District violated the rights of Named Plaintiffs, Class Members and future Class Members under state law including 24 P.S. §13-1306 and under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution by preventing Plaintiffs from attending the regular public schools of the District and restricting Plaintiffs' education to a single limited program that deprived them of the full range of educational services, options and opportunities provided to other resident students in the District;

**WHEREAS**, the Complaint also alleges that Defendant violated the rights of those Plaintiffs eligible for special education services under the Individuals with Disabilities Education Act ("IDEA" or "Act"), 20 U.S.C. 1400 *et seq.*, and Chapter 14 of the Pennsylvania School Code by placing these students in the "Auberle-student classroom" at the East End Academy and denying them the right to an individualized placement decision based on their Individualized Education Programs ("IEPs") as guaranteed by the IDEA and 22 Pa. Code Chapter 14;

**WHEREAS**, Plaintiffs sought injunctive relief including an order directing Defendant to close the Auberle-student classrooms and cease and desist from placing any child in a separate

classroom based on the child's status as a resident of the Auberle Group Home or other residential placement and requiring the District to immediately enroll all Plaintiffs in the District's regular schools with access to the full range of educational programs and opportunities to which they are entitled in accordance with applicable laws;

**WHEREAS**, Plaintiffs asked Defendant to treat all Plaintiff children in the same manner as resident children of the District, including treating Plaintiffs with disabilities in accordance with all applicable federal and state disability laws;

**WHEREAS**, Plaintiffs sought compensatory education and supplemental services to be provided to all Plaintiffs and reasonable attorneys' fees and costs;

**WHEREAS**, Defendant vigorously denies the allegations contained in the aforesaid Complaint. The District contends that it met all of its legal obligations to these students and in fact offered an education to many students who did not have the required documents for admission into the District.

**WHEREAS**, Defendant has been diligent and cooperative in addressing the Plaintiffs' claims; and

**WHEREAS**, Defendant in settling this matter does not admit any liability and in fact believes the actions taken by the District were taken in good faith and in compliance with State and Federal Law, but rather undertakes to settle this matter in the spirit of compromise;

**WHEREAS**, Plaintiffs and Defendant now wish to resolve their differences amicably and fully without further litigation in the best interest of Plaintiff children and to serve the goals of fairness and judicial economy, and to that end enter into this Settlement Agreement ("Agreement");

NOW THEREFORE, in consideration of the mutual promises contained herein, including the release of claims by Plaintiffs, the Parties hereby agree as follows:

*The District Shall Adopt New Enrollment and Placement Procedures for Children Residing at Auberle*

1. Defendant MASD agrees to close all Auberle student classrooms in the East End Academy and to cease and desist from placing any child in a separate classroom based on the child's status as a resident of Auberle Group Home or any other residential placement or dependency status.

2. Defendant agrees, within 30 days from the date of this Agreement, to adopt as a formal district policy the document titled "*Policy of the McKeesport Area School District for the Enrollment and Placement of Students Residing at Auberle,*" attached and incorporated by reference herein as Attachment "A".

3. Defendant agrees to enroll all children who reside in the Auberle Group Home into the District's regular schools pursuant to the policies and protocols set forth in Attachment A.

4. Defendant agrees to ensure that all children who reside in the Auberle Group Home are treated in the same manner as resident students, including having access to the full range of educational programs and opportunities to which they are entitled in accordance with all applicable laws.

5. Defendant agrees to treat Plaintiff Class Members with disabilities in the same manner as resident students with disabilities and in accordance with all applicable federal and state disability laws, including ensuring that students with disabilities are educated in accordance with their individualized education programs, placed in the least restrictive environment, offered a continuum of placements, and receive the same access to the full range of public education

programs and services offered to resident students in the MASD.

6. Defendant agrees, within 30 days from the date of this Agreement, to enter into a Memorandum of Understanding ("MOU") with the Auberle Group Home that, among other things, incorporates by reference the "*Policy of the McKeesport Area School District for the Enrollment and Placement of Students Residing at Auberle*" attached and incorporated by reference herein as Attachment "A" and the "*Protocol for Auberle Staff to Enroll Students in the McKeesport Area School District,*" attached and incorporated by reference herein as Attachment "B".

#### *Compensatory Education Services*

7. Defendant agrees to provide compensatory education services to Named Plaintiffs and Class Members with disabilities who were, during the time of their placement in the Auberle-student classrooms, eligible for special education services to be provided by McKeesport Area School District.

8. Eligibility for compensatory education services shall be determined by review of the child's education records. In addition, a Class Member whose education records do not reflect eligibility for special educational services shall be afforded an opportunity to establish eligibility for compensatory education services based on the submission of documentation that the child was eligible for special education services during the time of placement in the Auberle student classroom in MASD. Such documentation shall be submitted to the Third Party Administrator described herein. If the Administrator concludes that the child is ineligible for compensatory education services, the Class Member shall be notified of their right to seek any further relief by filing a Due Process Complaint with the Office of Dispute Resolution ("ODR"). There shall be no further right of appeal to the Administrator.

9. The amount of compensatory education services due to a child shall be made in accordance with the following calculation:

(a) Formula for Calculating the Compensatory Education Services for Each Student With Disabilities. For each Named Plaintiff and Class Member with disabilities who were during the time of their placement in the Auberle student classroom eligible for special education services by McKeesport Area School District, the District shall pay a total equal to the sum of the total number of days the student spent in the Auberle student classroom, from September 2008 to the present, multiplied by 6.5 hours (*i.e.*, the number of hours in a typical school day) for middle school students (grades 4-8) and 7.0 hours for high school students (grades 9-12).

(b) This calculation shall be multiplied by an hourly rate of \$45 per hour.

(c) In the event the actual cost of any of the compensatory education service hours exceeds \$45.00 per hour, the District shall receive additional credit toward Student's entitlement hours on a proportional basis consistent with the number of hours available to the child. Should the services be billed on a basis other than hourly, an eligible Class Member's remaining entitlement shall be reduced by one (1) hour for every \$45.00 paid to a provider.

10. Accessing Compensatory Education Services. The compensatory education services to be made available to Class Members pursuant to this Agreement shall be maintained in the form of individual accounts in the sum of the total number of compensatory education service hours times the hourly rate set forth above. An individual compensatory education fund shall not be established unless and until the student, parent, Legal Guardian, Education Guardian or Education Decision Maker or other IDEA Parent as defined by the Act desires to use funds pursuant to this Agreement and contacts the Third Party Administrator described herein requesting access to compensatory education services either verbally or in writing. Any and all



inquiries to the District or to Plaintiff's counsel regarding access to compensatory education services shall be redirected to the Third Party Administrator.

11. A Class Member shall be entitled to access compensatory education services at any time, and from time to time, in whole or part for a maximum period of four (4) years from date of making a claim for compensatory education services as long as the services are within the nature and scope of educational services as set forth in this Agreement.

12. Third Party Administrator of Compensatory Education Services. The Parties agree that a mutually agreed upon neutral third person shall be charged with the responsibility of serving as Third Party Administrator of Compensatory Education Services ("Third Party Administrator") and shall manage, monitor, track and distribute service hours and/or funds to eligible Class Members to enable students to use and access compensatory education service hours as allotted pursuant to the calculation above. This Third Party Administrator shall be responsible for:

(a) *Reviewing requests for compensatory education services and approving the distribution of funds for educational services* to eligible Class Members pursuant to the terms of this Agreement. The Administrator shall review submissions of documentation provided by a child's parent, Legal Guardian, Education Guardian or Education Decision Maker or other IDEA Parent and the District to support a request for compensatory education services. The Third Party Administrator shall confirm eligibility, calculate the hours of compensatory education services owed and approve documentation to support a request for compensatory education services. Appropriate documentation shall include an invoice, billing statement or invoice on professional or business letterhead; a canceled check, credit card statement, or similar evidence of payment.

(b) *Managing and distributing individual compensatory education service hours.*

Upon written request to access compensatory education services communicated to the Third Party Administrator, the Third Party Administrator shall contact the District and request that the District deposit into a separate account the total amount of funds due to the individual student in accordance with the formula set forth herein. Such funds shall be deposited in a separate account designated for the Class Member. This compensatory education services account shall be managed by the Third Party Administrator.

(c) *Ensuring that use of service hours is for educational purposes as defined herein and that the use of all hours and/or funds is properly documented.* Each request to use the funds shall be supported by the following information: (a) the name and address of the individual or entity that provided or will be providing the service, (b) a description of the type and nature of the service to be provided, and (c) the amount requested. All requests shall be promptly reviewed by the Third Party Administrator and requests for compensatory education services shall be processed within thirty (30) days of the request.

(d) *Ensuring and documenting the timely payment of funds for services rendered.* All payments shall be made to a provider or individual teacher within thirty (30) days of the date of submission of documentation.

13. Nature and Scope of Compensatory Education Services. The compensatory services can be provided by the MASD or by a private entity not affiliated with the District. Such services may be provided before, during, or after the student's regular instructional day during the normal school term, on weekends, or school breaks, or during the summer. Such funds shall be made available to Plaintiff children to be used for educational services designed to promote the academic, social and emotional development of the plaintiff child and shall include, but not

be limited to, such things as tutoring, summer and after school programs, credit recovery programs, software and hardware, transition and other educational or continuing educational services, vocational, therapeutic and/or remedial instruction programs, courses, services, tutoring, training, tuition, educational programs, memberships, equipment, costs, materials, technology, technological hardware, computer, software, peripherals, and supplies; "related services" as defined in IDEA and the regulations implementing the IDEA; consultation and evaluation services provided by appropriately qualified providers; and reasonable transportation expenses to access compensatory education services. The funds shall be used to supplement, rather than supplant, services, programming, products and materials available under public programs, including Student's current and future IEP and ESY entitlements.

14. Supplemental Education Opportunities for All Class Members. Defendant agrees to provide supplemental education opportunities as described herein to all Named Plaintiffs and Class Members regardless of whether they are eligible for compensatory education services. These opportunities shall be offered in the form of after-school and summer programs as described below:

(a) Credit Recovery Program. Defendant agrees to provide or ensure access to an approved credit recovery program during the summer and after school during the school terms of 2012, 2013 and 2014. This program will be open to all students currently residing at Auberle as well as all Class Members regardless of whether they are eligible for special education services under the IDEA.

(b) Targeted Tutoring. Defendant agrees to provide target tutoring services to all Class Members by making available two certified teachers during the summer(s) and after school during the school terms of 2012, 2013 and 2014. This tutoring will be in non-Title I subject

areas, and will be provided at Auberle on an as-needed basis during the summer and after school. Subjects areas in which tutoring will be provided as needed include but are not limited to: history; science; social; and vocational programming. This program will be open to all students residing at Auberle as well as all Class Members regardless of whether they are eligible for special education services under the IDEA;

(c) Computer Software. Defendant agrees to provide computer software learning modules to Auberle during the summer(s) and after school during the school terms of 2012, 2013 and 2014 to support the targeted tutoring in non-Title I subject areas described above.

(d) Access to Vocational Programs. Defendant agrees to facilitate enrollment of interested students residing at Auberle into the District's vocational programs, even when students seek to enroll in such programs at times other than the beginning of the school year or term. Defendant agrees to provide target tutoring, as described in paragraph 13(b) above, when requested, to help students catch up and succeed in vocational programs when they enter the program after the program's start date. This program will be open to all students residing at Auberle as well as to all Class Members;

(e) Impact of Supplemental Education Opportunities on Calculation of Compensatory Education Services for Eligible Plaintiffs. Defendant and Plaintiff agree that any IDEA-eligible Class Member who is entitled to compensatory education services under this Agreement may take advantage of the supplemental opportunities described herein and that these hours shall not impact or be deducted from their entitlement to compensatory education services;

(f) Opportunities for Students No Longer Residing in the District. The Parties agree that in lieu of the forgoing, any student who no longer resides in the District shall be entitled to (75) seventy-five hours of supplemental education services at a rate of \$45 per hour tha

used in accordance with the parameters set forth in Paragraphs 11 through 13 of the Agreement and can be accessed for a period of four years.

*Release of Claims*

15. In consideration of the rights and obligations set forth in this Agreement and except as provided in this Agreement, Plaintiffs, their successors, assigns, heirs, executors, administrators, and legal representatives, with the intent to be legally bound hereby, now release, acquit, discharge and hold harmless Defendant School District, and any and all of their agents, servants, employees, officials, officers, and assigns from any and all actions, causes of action or claims relating to the specific claims asserted in the Complaint on their behalf of Plaintiff children from the date of this Complaint until the date of this Agreement;

16. Attorneys' Fees and Costs. Defendant shall pay Plaintiffs' reasonable attorneys' fees and costs to KidsVoice and the Education Law Center. Defendant agrees to make payment by check payable to KidsVoice and delivered each within six months to KidsVoice at 437 Grant Street, Suite 700, Pittsburgh, Pennsylvania 15219. This sum constitutes payment by Defendant to secure the full and final settlement of all claims by Plaintiffs for attorneys' fees and costs, incurred by the Education Law Center and KidsVoice or any other Counsel in this action up to and including the date of this Agreement. The Parties agree that in the event of a default in the terms and conditions of this agreement that either party will be responsible for the non-breaching party's attorneys' fees and claims.

*Enforcement of This Agreement*

17. This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania;

18. This Agreement shall constitute the entire Agreement and Release and understanding between the Parties concerning the subject matter to which it expressly pertains. It supersedes and rescinds all prior or contemporary agreements or understandings and can be modified only in writing executed by the Parties. If any portion of this Agreement and Release is found by a Court to be unenforceable, it shall be deemed severable from the remainder of the Agreement and Release, the remainder of which shall continue in full force and effect, and expresses the full and complete settlement of Plaintiffs' claims as raised in the Complaint filed on October 14, 2010;

19. Upon execution of this Agreement, the publication and distribution of the attached Protocols (Attachments "A" and "B") as set forth herein, Plaintiffs counsel's receipt of written confirmation that the compensatory education services shall be made available and Plaintiffs' counsel's receipt of written confirmation of the District's commitment to payment of the agreed attorneys' fees and costs as set forth in paragraph 16, Plaintiffs' counsel shall file with the Court a copy of this Agreement with a Stipulation for Dismissal, and ask that the case be dismissed in accordance with the terms and conditions set forth herein;

20. This Agreement is not a Consent Decree. Actions taken or to be taken by the Defendants hereunder are not admissions of liability on the part of the Defendant, but are undertaken in the spirit of compromise. The parties agree that this Agreement constitutes an enforceable contract and that the parties intend to be bound thereby. The sole remedy for Plaintiffs for an alleged failure of the Defendant to fulfill the terms of this Agreement is to seek specific performance and declaratory relief in a court of competent jurisdiction.

*Notice to Class*

21. **Pre-Hearing Notices to Class Members.** Subject to the terms of the Settlement Agreement, an independent, third-party class action administrator (the "Settlement

Administrator") shall provide Class members with the Notice attached hereto as Exhibit A in the manner set forth below.

(a) **Notice by Mail.** The Settlement Administrator shall mail the Notice of Lawsuit and Proposed Settlement substantially in the form filed with this Court as Exhibit A hereto to the last known address of each reasonably identifiable class member whenever it is reasonably possible to obtain such an address. In addition, whenever it is reasonably possible to obtain such additional addresses, the Notice shall be sent to each child's child welfare placing agency, juvenile probation agency (if the child is probation-involved), and child advocate/guardian *ad litem*. The Class Notice shall be sent by first-class mail, postage prepaid, no later than 60 days following the entry of the Court's Order.

(b) **Proof of Mailing.** At or before the Fairness Hearing, the Settlement Administrator shall file with the Court a proof of mailing of the Class Notice.

(c) **Notice by Publication.** Notice of Lawsuit and Proposed Settlement shall be published in the following publications and/or through the following websites: Tribune Review; McKeesport Daily News; when possible the following publications and/or websites: Pennsylvania Bar Association and Children's Rights Committee attorney listserv; Department of Human Services Websites for Allegheny, Fayette, Washington, Westmoreland and Armstrong counties; University of Pittsburgh Child Welfare Training Program website and listserv; Juvenile Defenders Association listserv; Allegheny County Public Defender Office; National Association of Children's Counsel listserv; Pennsylvania Youth Advisory Board Website and Newsletter; Allegheny County Bar Association Juvenile Law Committee listserv; Juvenile Law Center website; KidsVoice website; Education Law Center website; Disability Rights Network website; Email to County Children & Youth and Probation for the above listed counties; Auberle website

and McKeesport Area School District website.

(d) As reflected in the attached Notice, which is fully incorporated herein, class members have 60 days to challenge the proposed Settlement Agreement and up to two years from the effective date of the Agreement to identify themselves as a member of the Class.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2012

PLAINTIFFS

Counsel for the Defendant

\_\_\_\_\_  
Counsel for Plaintiffs  
Nancy A. Hubley, Esq.  
Pa ID # 40228

Maura McInerney, Esq.  
Pa ID #71468  
EDUCATION LAW CENTER

\_\_\_\_\_  
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\_\_\_\_\_  
Jennifer Staley McCrady, Esq.  
Pa. ID #90891  
Amanda W. Shackelton, Esq.  
Pa ID #309704  
Scott Hollander, Esq.  
PA ID #77834  
KIDSVOICE



Exhibit A

NOTICE OF CLASS ACTION SETTLEMENT

You have received this notice because you may be entitled to educational services as a member of the plaintiff class in the class action lawsuit *T.P. v. McKeesport Area School District, Case No. GD-10-019236*.

Did you live at the Auberle Group Home at any time from October 14, 2008 to January 1, 2011?

YES

Did you attend school in the "alternative education" building in the "transition classroom" for Auberle students? (This classroom was located down the hill from Auberle and sometimes called "East End Academy.")

YES

If you answer is YES to both questions, you are a member of a class Action law suit as a "T.P. McKeesport Class Member" and may be entitled to a variety of free educational services!

Here are some of the educational services you may be entitled to:

- ✓ Computers and other educational technology: includes training, technical assistance, software, and other supports;
- ✓ Educational programs: includes tuition and enrollment in afterschool, summer, tutoring services, and other school-aged education programs;
- ✓ Help with payment for post high school education programs and services : includes vocational programs; community college, tutoring, and other;
- ✓ School supplies: includes books, software and other educational materials;
- ✓ Transportation costs to educational programs and services;
- ✓ Opportunities for free credit recovery;
- ✓ Vocational training and other educational opportunities; and
- ✓ Other educational programs or services you may need.

**Things you need to know:**

- (1) If you answered **yes** to the questions above, you are a class member. You do not have to do anything else to become a member of the class.
- (2) **A hearing about this settlement will be held on August 23, 2012 at 10:00 a.m.** You can come - but are not required to come - to the hearing. The hearing is to discuss the Parties' proposed settlement, including everything described on page 1 of this document. You can come to ask questions. Or to challenge the proposed agreement.
- (3) **You have the right to review all Court documents** and have them explained to you.
- (4) **You can tell the Judge what you think** about the Settlement and whether he should approve it. You can talk to the Judge at the hearing or in writing.
- (5) **Written communications** should contain a signed letter including printed name, address, and telephone number. Written comments objecting to or supporting approval of the settlement must be postmarked on or before August 9, 2012 to be considered.
- (6) **You have a right to exclude yourself from the class** and not be a part of a settlement. If you do not request to be excluded, the settlement approved by the Court will bind all class members.
- (7) **You can contact us** (information below) to get more information.

**If the Settlement is approved, you will have 2 years to tell us you are a member of the class and would like educational services. The sooner you identify yourself, the easier it will be to access your benefits.**

**To learn more about this Settlement or to identify yourself or a child in your care as a potential class member for future communication, contact:**

**Jennifer Fox Rabold, Settlement Administrator**  
Phone: 800.543.8921.or Email: [MASDFund@fedex.com](mailto:MASDFund@fedex.com). or by letter to:  
McKeesport Settlement c/o Jennifer Fox Rabold  
Senior Counsel-Legal Division,  
FedEx Ground Package System, Inc.  
1000 FedEx Drive Moon Township, PA 15108

**For additional information:**

Plaintiff's Attorney  
Nancy A. Hubley  
Education Law Center  
**412.258.2120**

Plaintiff's Attorney  
Jennifer Staley McCrady  
KidsVoice  
**412.391.3100**

Defendant's Attorney  
John Rushford  
Dodaro, Matta & Cambest  
**412.243.1600**

**Please do not call DHS, CYF, Auberle, the Court, or the Judge.**

**This Notice has been approved for publication by The Honorable R. Stanton Wettick,  
Senior Judge, Court of Common Pleas of Allegheny County**

NOTICE

**TO:** Jennifer Fox Rabold, Settlement Administrator

**RE:** *T.P. v. McKeesport School District, et al.*, Civil Action No. 10-019236, Pennsylvania  
Court of Common Pleas, Allegheny County

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I believe I am a Class Member as described in the "Notice of Class Action Settlement." I would like to receive further communications regarding this matter.

My name is \_\_\_\_\_

My address is \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email address (optional): \_\_\_\_\_

**PLEASE MAIL THIS FORM TO:**

McKeesport Settlement  
c/o Jennifer Fox Rabold  
Senior Counsel-Legal Division  
FedEx Ground Package System, Inc.  
1000 FedEx Drive  
Moon Township, PA 15108

**NOTICE OF OBJECTION TO SETTLEMENT/DECISION**

**TO: Judge Wettick, Court of Common Pleas, Allegheny County**

**RE: *T.P. v. McKeesport School District, et al.*, Civil Action No. 10-019236, Pennsylvania Court of Common Pleas, Allegheny County**

My name is \_\_\_\_\_

My address is \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email address (optional): \_\_\_\_\_

I believe I am a Class Member as described in the "Notice of Class Action Settlement."

While living at the Auberle Group Home, I went to school in the McKeesport Area School District from approximately \_\_\_\_\_ to \_\_\_\_\_.

I am writing to notify the Court of my objection to the proposed Settlement Agreement on the following grounds:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I understand that I have a right to attend a hearing that shall take place on \_\_\_\_\_ at the Pennsylvania Court of Common Pleas for Allegheny County located at \_\_\_\_\_.

Signature of Class Member: \_\_\_\_\_ Date: \_\_\_\_\_

**PLEASE MAIL THIS FORM TO:**

McKeesport Settlement  
c/o Jennifer Fox Rabold  
Senior Counsel-Legal Division  
FedEx Ground Package System, Inc.  
1000 FedEx Drive  
Moon Township, PA 15108