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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

ADVOCATES FOR SPECIAL KIDS; )  
EDITH WYRICK, by her guardian ad litem )  
Catherine Wood Wyrick; AARON )  
WEINGARTEN by his guardian ad litem )  
Darlene Weingarten; TARA PETERSON, )  
by her guardian ad litem Mary Peterson; )  
BRETT McNEIL, by his guardian ad litem )  
Cathie McNeil; and SHEA KEITH IVEY, )  
by his guardian ad litem Cynthia Kay Brown )

Civil No. 99-263-KI

NOTICE OF PENDENCY AND  
SETTLEMENT OF CLASS ACTION

Plaintiffs,

v.

OREGON STATE BOARD OF )  
EDUCATION, and Oregon public entity; )  
WAYNE FELLER, Chair of the Oregon )  
State Board of Education; STAN BUNN, )  
Oregon State Superintendent of Public )  
Instruction; PORTLAND PUBLIC )  
SCHOOLS BOARD OF EDUCATION, )  
a public entity; RON SAXTON, Chair of )  
the Portland Public Schools Board of )  
Education; and BENJAMIN CANADA, )  
Superintendent of Portland Public Schools. )

Defendants.

TO: ALL OREGON PARENTS AND LEGAL GUARDIANS OF CHILDREN AND  
YOUTH WITH LEARNING DISABILITIES, AND CHILDREN WITH LEARNING  
DISABILITIES AGES 28 AND OVER, ATTENDING OREGON'S PUBLIC  
SCHOOLS WHO PARTICIPATED IN, SOUGHT TO PARTICIPATE IN, OR  
SOUGHT TO BE EXCLUDED FROM THE OREGON STATEWIDE  
ASSESSMENT SYSTEM FROM FEBRUARY 22, 1999 TO THE PRESENT

1 NOTICE IS HEREBY GIVEN, pursuant to Rule 23 of the Federal Rules of Civil  
2 procedure and an Order of the United States District Court for the District of Oregon (the  
3 "Court"), dated February 26, 2001, that a hearing will be held before the Honorable Garr M.  
4 King at the United States District Court for the District of Oregon, 1000 S.W. Third Avenue,  
5 Portland, Oregon at 2:30 p.m. on May 21, 2001, to determine:

6 (1) Whether a proposed settlement of the above-entitled litigation, the terms of which  
7 are set forth in a settlement agreement filed with the Court, is fair, reasonable, adequate, and  
8 made in good faith; and

9 (2) Whether a final judgment should be entered thereon, dismissing the litigation on the  
10 merits, with prejudice.

#### 11 SUMMARY OF LITIGATION AND PROPOSED SETTLEMENT

12 Plaintiffs filed this class action on behalf of all Oregon students with learning disabilities  
13 who attend Oregon's public schools. Plaintiffs alleged in their complaint that Oregon's Statewide  
14 Assessment System violates the Americans with Disabilities Act (ADA), the Individuals with  
15 Disabilities Education Act (IDEA), and other laws. The Department of Education denies that the  
16 Oregon Statewide Assessment System violates the ADA, IDEA or any other law. The parties  
17 have agreed on the terms of a proposed settlement, as set forth in a Settlement Agreement that  
18 has been preliminarily approved by the Court.

19 Plaintiffs believe that the terms of the proposed settlement will improve Oregon's  
20 Statewide Assessment System (OSAS) as it relates to students with learning disabilities. Under  
21 the terms of the Settlement, policies and procedures regarding the OSAS and how it affects  
22 students with learning disabilities will be revised in accordance with the recommendations of a  
23 Blue Ribbon Panel of experts. Specifically, the Oregon Department of Education (ODE) has  
24 agreed to implement the Panel's recommendations in five areas: (1) Accommodation; (2)  
25 Alternate Assessments; (3) Problem Resolution and Appeals Process; (4) IEP and Section 504  
26 Processes; and (5) Use of Test Results. Implementation shall be phased in over three years  
27 under a schedule set forth in the Settlement Agreement. the Agreement also includes periodic  
28 reporting requirements and provisions for monitoring compliance with the Agreement.

1 CLASS MEMBER RIGHTS AND OBLIGATIONS

2 A member of the class will be bound by the proposed Settlement, in the event it is  
3 approved by the Court.

4 Any member of the class may object to the Settlement Agreement if, on or before April  
5 23, 2001, the class member files with the Court notice of intention to appear (setting forth each  
6 objection and the basis thereof and copies of any papers in support of the objection(s), and  
7 serves such objections on the following parties:

8 Sid Wolinsky  
9 Disabilities Rights Advocates  
449 15<sup>th</sup> Street, Suite 303  
10 Oakland, CA 94612

11 Stephen K. Bushong  
12 Oregon Department of Justice  
1162 Court Street, N.E.  
Salem, OR 97310

13 Objections will be considered at the hearing on May 21, 2001, at which class members  
14 who file timely objections will have the right to appear and be heard. Any member of the class  
15 who does not make his or her objections in the manner provided shall be deemed to have waived  
16 such objection and shall forever be foreclosed from making objections to the fairness, adequacy  
17 or reasonableness of the proposed settlement.

18 EXAMINATION OF PAPERS AND INQUIRIES

19 For a more detailed statement of the matters involved in the action and proposed  
20 settlement, you may refer to the pleadings, the Settlement Agreement, and the other papers filed  
21 in the above action, which may be inspected at the Office of the Clerk of the United States  
22 District Court, Mark O. Hatfield U.S. Courthouse, 1000 S.W. Third Avenue, Portland, Oregon,  
23 during normal business hours of each business day. The Settlement Agreement is also available  
24 over the Internet at [www.ode.state.or.us/sped/statement.htm](http://www.ode.state.or.us/sped/statement.htm).

25 All inquiries by members of the class should be directed to:

26 Alison Aubry  
27 Disability Rights Advocates  
449 15<sup>th</sup> Street, Suite 303  
28 Oakland, CA 94612

