

**C.P. v. New Jersey Department of Education**

Civil Action No. 19-cv-12807-NLH-MJS

**FINAL COMPLIANCE REPORT #2**

Submitted by

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Compliance Monitor

3.22.25

## **I. Overview**

After appointment by the federal District Compliance of New Jersey on April 2024 for the purpose of implementing the Consent Order and Settlement Agreement, monthly data has been collected and reviewed by the Compliance Monitor. Frequent meetings have been held with NJDOE and OAL to problem solve and receive progress or status updates. The culmination of this information is used by the Compliance Monitor to compile this second Compliance Report.

It is important to recognize that OAL experienced a slower start in its data collection and use of the Adjournment Form, the effect of which continues to influence the Compliance Monitor's ability to determine strict compliance with due process decision timelines. As more data is collected over the next few months, a clearer picture will develop and be documented in subsequent reports.

## **II. Summary of Initiatives, Interventions, and Corrective Actions**

NJDOE and OAL worked collaboratively to develop an implementation plan in response to the Compliance Monitor's recommendations in the previous report. To date, the parties have implemented the following recommendations:

- Contemporaneous notice from NJDOE to OAL when a due process hearing request is filed at NJDOE.
- Immediate transmittal upon a public agency filing of a due process hearing request.
- Improved tracking of resolution timelines to ensure transmittal consistent with N.J.A.C. 6A:14-2.7(h).
- Use of the Adjournment Form to meet all minimum requirements of the Settlement Agreement.
- Inclusion of the NJDOE on the distribution list for copies of all adjournments, orders, and decisions.

Considerable planning and collaboration have taken place at NJDOE and OAL to shift to the use of ALJ to conduct due process mediations. It is anticipated that the availability of both mediations and settlement conferences with a ALJ will lead to earlier

opportunities for settlement of disputed issues. The Individuals with Disabilities Education Act (IDEA) encourages the use of mediation and other forms of alternative dispute resolution in order to facilitate the parties' resolution of disputes without a formal due process hearing. The efforts of NJDOE and OAL to increase resolution of disputes without a formal hearing are consistent with the intent of the IDEA.

### **III. Data Collected During Reporting Period from August to November 2024**

The Compliance Monitor received the following due process data from NJDOE:

- Filing dates,
- Case numbers and names,
- Resolution period and extensions,
- Mediation dates,
- OSE disposition, and
- Transmittal dates.

The Compliance Monitor received the following due process data from OAL:

- Copies of all Adjournment Forms,
- Copies of all decisions issued in due process matters,
- Copies of all transmittal forms received from NJDOE,
- Reset case status and pending events,
- Pending cases,
- Newly opened cases, and
- Closed cases.

NJDOE and OAL have been available to answer the Compliance Monitor's questions, provide clarification as needed, and provide additional documentation as needed.

#### **A. NJDOE Monthly Data**

Each month from August to November 2024 is compiled and summarized below, including the number of new cases for the month, cases withdrawn or resolved prior to transmittal, the number of transmittals for new cases as well as all prior month's cases transmitted in that month, analyzed for timeliness. The purpose of closely analyzing

transmittal data is to understand the root causes of late due process decisions issued beyond the 45 day timeline, or properly extended timeline. Delayed transmittals significantly contribute to the potential for late due process decisions.

AUGUST 2024 DATA						
Number of New Cases		Cases Resolved/Withdrawn Prior to Transmittal		Number of Transmittals for New Cases		
92		24		4		
DOE Transmittals vs. OAL Receipt of Transmittals in August 2024						
Original Filing Month	Number of Cases Transmitted in August 2024	Transmitted by the End of the Resolution Period	Resolution Extended for Mediation	Percent Timely	Resolution Improperly Extended	Percent Late
April 2024	6	0	5	83%	1 1 – settlement conf. 0 – district filing 0 – late unknown	17%
May 2024	15	0	9	60%	6 5 – settlement conf. 1 – district filing 0 – late unknown	40%
June 2024	33	0	15	45%	18 8 – settlement conf. 6 – district filing 4 – late unknown	55%
July 2024	22	3	9	55%	10 3 – settlement conf. 1 – district filing 6 – late unknown	45%
August 2024	4	2	0	50%	2 0 – settlement conf. 2 – district filing 0 – late unknown	50%
TOTAL	80	5	38	54%	37	46%
COMPARISON	80 DOE transmittals vs. the 97 transmittals received by OAL. This difference could be attributed to duplication of cases at OAL due, in part, to partial transmittals for sufficiency challenges or emergent relief, expedited discipline matters, settlement conferences, or cases filed under Section 504.					

SEPTEMBER 2024 DATA						
Number of New Cases		Cases Resolved/Withdrawn Prior to Transmittal		Number of Transmittals for New Cases		
77		17		12		
DOE Transmittals vs. OAL Receipt of Transmittals in September 2024						
Original Filing Month	Cases Transmitted September 2024	Transmitted by the End of the Resolution Period	Resolution Extended for Mediation	Percent Timely	Resolution Improperly Extended	Percent Late
April 2024	1	0	1	100%	0 0 – settlement conf. 0 – district filing 0 – late unknown	0%
May 2024	4	0	2	50%	2 1 – settlement conf. 1 – district filing 0 – late unknown	50%
June 2024	11	0	5	45%	6 3 – settlement conf. 2 – district filing 1 – late unknown	55%
July 2024	27	0	9	33%	18 9 – settlement conf. 5 – district filing 4 – late unknown	67%
August 2024	35	14	9	66%	12 3– settlement conf. 1 – district filing 8 – late unknown	34%
September 2024	12	11	0	92%	1 0 – settlement conf. 0 – district filing 1 – late unknown	8%
TOTAL	90	25	26	57%	39	43%
COMPARISON	90 OSE transmittals vs. the 92 transmittals received by OAL. This difference could be attributed to duplication of cases at OAL due, in part, to partial transmittals for sufficiency challenges or emergent relief, expedited discipline matters, settlement conferences, or cases filed under Section 504.					

OCTOBER 2024 DATA						
Number of New Cases		Cases Resolved/Withdrawn Prior to Transmittal		Number of Transmittals for New Cases		
68		10		7		
DOE Transmittals vs. OAL Receipt of Transmittals in October 2024						
Original Filing Month	Cases Transmitted October 2024	Transmitted by the End of the Resolution Period	Resolution Extended for Mediation	Percent Timely	Resolution Improperly Extended	Percent Late
May 2024	3	0	3	100%	0 0 – settlement conf. 0 – district filing 0 – late unknown	0%
June 2024	3	0	2	67%	1 1 – settlement conf. 0 – district filing 0 – late unknown	33%
July 2024	8	0	2	25%	6 6 – settlement conf. 0 – district filing 0 – late unknown	75%
August 2024	16	0	10	63%	6 5 – settlement conf. 0 – district filing 1 – late unknown	37%
September 2024	29	11	5	55%	13 3 – settlement conf. 0 – district filing 10 – late unknown	45%
October 2024	7	4	0	57%	3 0 – settlement conf. 3 – district filing 0 – late unknown	43%
TOTAL	66	15	22	56%	29	44%
COMPARISON	66 OSE transmittals vs. the 78 transmittals received by OAL. This difference could be attributed to duplication of cases at OAL due, in part, to partial transmittals for sufficiency challenges or emergent relief, expedited discipline matters, settlement conferences, or cases filed under Section 504.					

NOVEMBER 2024 DATA						
Number of New Cases		Cases Resolved/Withdrawn Prior to Transmittal		Number of Transmittals for New Cases		
57		9		5		
DOE Transmittals vs. OAL Receipt of Transmittals in November 2024						
Original Filing Month	Cases Transmitted November 2024	Transmitted by the End of the Resolution Period	Resolution Extended for Mediation	Percent Timely	Resolution Improperly Extended	Percent Late
July 2024	1	0	1	100%	0 0 – settlement conf. 0 – district filing 0 – late unknown	0%
August 2024	4	0	2	50%	2 0 – settlement conf. 0 – district filing 2 – late unknown	50%
September 2024	8	0	3	38%	5 4 – settlement conf. 1 – district filing 0 – late unknown	62%
October 2024	33	11	2	40%	20 12 – settlement conf. 5 – district filing 3 – late unknown	60%
November 2024	5	5	0	100%	0 0 – settlement conf. 0 – district filing 0 – late unknown	0%
TOTAL	51	16	8	47%	27	53%
COMPARISON	51 OSE transmittals vs. the 68 transmittals received by OAL. This difference could be attributed to duplication of cases at OAL due, in part, to partial transmittals for sufficiency challenges or emergent relief, expedited discipline matters, settlement conferences, or cases filed under Section 504.					

It is important to note that the most recent data for transmittals of all prior months' cases represent a distinct improvement when considering that before August 2024, no cases were transmitted by the end of the resolution period, even when properly extended. Also noteworthy, the extension of the resolution period for the purpose of settlement conferences (as opposed to mediation) greatly diminished during this reporting period, bringing NJDOE closer to compliance with N.J.A.C. 6A:14-2.7(h).

### **B. OAL Data Summary**

OAL continues to collect and report all data requested without the benefit of an automated data collection system. Without some type of automated system, data is manually pulled from respective case files, making it impossible to track the "age" of a case on any given date. The completed Adjournment Forms are a major source of information for determining compliance with appropriately extended due process timelines. For this report, it was possible to drill down to the case level to review the timeliness and reasons for adjournments as well as the thoroughness of completion of the Adjournment Form.

OAL anticipates that a new automated case tracking system will go live in the coming weeks/months, depending on the length of time needed to accurately convert all data from the existing system to the automated system. As with any data conversion, maintaining the integrity of existing data is paramount. When that system is online, the Compliance Monitor will be able to readily ascertain the age of a case from filing to conclusion.

The following table represents a detailed analysis of adjournments from August to November 2024.



OAL ADJOURNMENT DATA					
Month	Number of Adjournments	Range of Days Hearing Deadline Was Extended	Number of Noncompliant Adjournments^	Number of Compliant Adjournments*	Percentage of Matters Properly Adjourned
August 2024	111	3 – 305	52 20 – ALJ initiated 16 – No ext. length 21 – No new due date 25 – Incorrect date calculation	59	53%
September 2024	99	2 – 163	56 19 – ALJ initiated 12 – No ext. length 29 – No new due date 18 – Incorrect date calculation	43	43%
October 2024	103	1 – 279	48 14 – ALJ initiated 14 – No ext. length 26 – No new due date 19 – Incorrect date calculation	55	53%
November 2024	65	4 – 150	30 7 – ALJ initiated 10 – No ext. length 12 – No new due date 14 – Incorrect date calculation	35	54%
<b>Total</b>	<b>378</b>	<b>N/A</b>	<b>156</b>	<b>192</b>	<b>51%</b>
<b>SUMMARY</b>	Each adjournment form was reviewed to verify appropriate extensions to the decision deadline. Missing fields and incorrect date calculations account for most errors. It is anticipated that compliance will increase in response to OAL's efforts to train/retrain ALJs on the importance and use of the form.				

^ Adjournment forms may be noncompliant for more than one reason.

\* Substantial compliance with Adjournment Form determined by confirming the extension resulted from the request of a party, was granted by the ALJ, documented the length of the extension, and provided a new decision due date.

As required by the Consent Decree, the Compliance Monitor reports on specific data points. The following table represents the mandatory compliance data as specified in the Consent Decree:

SPECIFIC COMPLIANCE DATA						
Month	Pending Cases (Aggregate)		Final Decisions- Post Full Hearing		Final Decisions-No Full Hearing	
	Number	% Compliant Within 45 day Timeline*	Number	% Compliant Within 45 Day Timeline	Number	% Compliant Within 45 Day Timeline
August 2024	193	53% % based on Adjournment Forms.	4	0% All presumed noncompliant. No adjournment data.	55	4% 2 compliant adjournment forms.
September 2024	199	43% % based on Adjournment Forms.	4	25% 1 compliant adjournment form.	58	28% 16 compliant adjournment forms.
October 2024	189	53% % based on Adjournment Forms.	9	11% 1 compliant adjournment form.	63	19% 12 compliant adjournment forms.
November 2024	194	54% % based on Adjournment Forms.	4	50% 2 compliant adjournment forms.	39	46% 18 compliant adjournment forms.

\* Use of Adjournment Forms commenced in July, with sporadic use noted until August 2024. It is impossible to calculate accurate timelines prior to the use of Adjournment Forms. Since each month has pending cases filed before August and the regular use of Adjournment Forms, the compliance with the 45 day timeline is based on an estimate gleaned through analysis of the Adjournment Forms commencing in August 2024.

The above table clearly demonstrates that use of the Adjournment Form has had a positive impact on compliance with mandatory timelines for due process hearings. From August to November 2024, and distinct upward trend in compliance is confirmed.

#### IV. Hypothesis of Causes and Barriers

Several different hypotheses and barriers are presented when examining the due process hearing data in New Jersey for timeliness with the 45-Day Rule.

1. No uniform data collection or record keeping system exists to track due process hearing requests from filing through to conclusion.
2. OAL has only recently commenced tracking extensions of the 45 day timeline. No formal record existed until the Adjournment Form was introduced in July 2024. Many pending cases were filed in the months prior to the use of the Adjournment Form, making it impossible to determine compliance with timelines

prior to the introduction of the Adjournment Form. With each month's tracking of adjournments, the data becomes more robust and reliable.

3. Although the Adjournment Form has already assisted with tracking timelines in an individual case, non-uniform use of the form and incomplete documentation on the form have diminished its potential value, resulting in lower compliance rates.
4. No data is reported on the length of time from filing to closure of a due process case. Until use of the Adjournment form commenced, it was impossible to verify the length of an adjournment, negating a true calculation of the age of a case and whether the 45 day timeline had been properly extended.

#### **V. Summary of NJDOE Actions to Address Noncompliance to Date**

NJDOE and OAL have fully implemented all Compliance Monitor recommendations to date to increase the veracity and reliability of data collection to give a true picture of timeliness of due process hearings. The following additional actions have been undertaken to improve the New Jersey due process hearing system:

1. **NJDOE and OAL weekly collaboration meetings.** Both agencies regularly participate in weekly meetings to increase communication and problem solve potential issues. The meetings have been described as “true collaboration” by NJDOE participants.
2. **Inclusion of ALJs on the NJDOE mediation roster.** In order to facilitate the use of ALJs as IDEA mediators, NJDOE has included the selected and trained ALJs on its IDEA mediation roster.
3. **NJDOE tracks and monitors the resolution period with increased accuracy.** NJDOE added data fields to its regular data collection to provide insight on the use of mediation and settlement conferences on the timing of the resolution period.
4. **Modification of forms.** NJDOE refined its forms used to provide notice to OAL of all cases at the time of filing and distinguish that process from actual transmittal.

5. **Dedication of staff and resources.** NJDOE dedicates staff and resources within its own office and within OAL to address the necessary improvements.

## **VI. Summary of NJDOE Future Actions to Rectify Noncompliance**

NJDOE continues to take the initiative to improve its due process hearing system. NJDOE has committed to dedicating time, collaborative efforts, resources, and staff to making the necessary changes to bring the due process hearing system into compliance with the 45-Day Rule.

## **VII. Recommendations for Compliance**

The Compliance Monitor recommends the following actions for NJDOE and OAL:

- Eliminate delays in transmitting cases to OAL for hearing. In several instances, the correct date ending the resolution period was noted, but transmittal did not regularly occur immediately after the conclusion of the resolution period.
- Continue with the plan to eliminate transmittal delays associated with district filing of the due process request and extended time for settlement conferences.
- Reinforce the necessity of ALJs consistently and thoroughly completing an Adjournment Form with each extension of the 45 day timeline.
- Ensure that the due process system is adequately staffed both at NJDOE and OAL to address all responsibilities necessary for a compliant due process system.

## **VIII. Response to Comments**

After issuance of the draft report, comments from class counsel were received March 10, 2025. Both DOE and OAL reviewed the report and have no substantive issues with its content as reported on March 21, 2025. The Compliance Monitor issues this Final Report after consideration of the comments received by class counsel.

### **1. Adjournment Form Implementation:**

It is critical to note that this reporting period covered the months of August to November 2024. Use of the Adjournment Form commenced in July 2024, with noted sporadic use. With the introduction of a significant process change, it is to be expected that compliance with the new process takes time to be fully

incorporated into the system. The documentation from this reporting period covers what could be considered an introductory period for use of the adjournment form, demonstrating inconsistent use with small, positive growth noted. As previously stated by the compliance monitor, “non-uniform use of the form and incomplete documentation on the form have diminished its potential value, resulting in lower compliance rates.”

In conferences with NJDOE and OAL, the need to increase adjournment form use and consistency is emphasized. Both NJDOE and OAL concur. The Chief Administrative Law Judge expressly supported increased and consistent use of the adjournment form in conversations with the compliance monitor and shared some of OAL’s strategies to raise compliance rates regarding use of the adjournment form. The next reporting cycle and data set will shed more light on consistent implementation of the adjournment form. It is anticipated that the data will show growth. If compliance numbers remain low, directed action will be taken at that time.

## 2. Use of ALJs for Mediation:

New Jersey has a long standing, established process of utilizing ALJs for settlement conferences post unsuccessful mediation. The resolution period was frequently erroneously extended for the purpose of settlement conferences. In this data cycle, the resolution period was extended for settlement conference in 17 due process cases in August, 16 cases in September, 14 cases in October, and 16 cases in November. The end result of this practice is that resolution was improperly extended in 63 cases, delaying the commencement of the due process hearing timeline. Any of these cases that proceeded to hearing would not be compliant with the 45 day timeline because of that initial delay. It is critical to systematically address any inappropriate delays to commencement of the due process timeline, like late transmittals or improper extension of the resolution period for settlement.

NJDOE added trained ALJs to its mediator roster assigned to handle mediations in order to reduce the amount of time prior commencement of the due process

hearing timeline, giving parties control over whether the time would be used for mediation or a settlement conference. If parties want to extend resolution for the purpose of engaging in mediation, the resolution period can be properly extended for continued mediation. In the event that the parties need more time beyond the resolution period to continue to negotiate a settlement, the adjournment form will be used to formalize the purpose and length of that adjournment rather than the previous open-ended and undocumented delays to the due process timeline.

The compliance monitor does not view the use of ALJs as mediators to be a noncompliant practice as long as they are trained consistent with 20 U.S.C. 1415(e)(2)(A)(iii) and due process hearing timelines are properly extended. Close attention must be given to future data collection to ascertain the veracity of this practice.

### 3. Data Collection:

From the onset, work of the compliance monitor has been complicated by the lack of an electronic data system that tracks a case from beginning to end. That system remains in development but has not yet been implemented at the time this report was written. There is no doubt that lack of consistent electronic case management hampers both data collection and data analysis, including matched data analysis.

With respect to the survey at the end of the adjournment form, it is mentioned on page 9 of the Consent Decree as a required data collection point. The survey contains 11 questions to be completed by an ALJ. Direct responses to 10 of the 11 questions are provided to the compliance monitor in a printed copy of the adjournment form. Response to the survey question asking whether there has been a previous extension is not specifically shared. However, the adjournment form provides explicit instructions for calculation of the final due date when a prior extension has been granted, which seems to be the intended purpose of that question on the survey. The compliance monitor reviews every adjournment form for compliance, thereby reviewing the survey data in its entirety.

In order to fully understand and report on the extent of its use, the compliance monitor will henceforth require NJDOE/OAL report on the frequency of submission of the NJDOE Required Extension Survey each month.

Respectfully submitted this 22<sup>nd</sup> day of March 2025.



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Lenore Knudtson  
Compliance Monitor