

LEGAL NOTICE

If you or your child is a Berkeley Unified School District student, you may be affected by the settlement of the class action lawsuit called *Smith v. Board of Education of the Berkeley Unified School District.*

WHAT IS THIS CASE ABOUT?

Smith v. Board of Education of the Berkeley Unified School District is a class action lawsuit about the Berkeley Unified School District's duty to provide African-American and Latino students with legally required due process protections prior to removing them from regular high school and middle school programs or transferring them to alternative school programs for disciplinary reasons. The case is also about the District's obligation to ensure that African American and Latino students are not disproportionately subjected to disciplinary measures. In short, Plaintiff students allege that the District has (1) violated their right to procedural due process, (2) violated their right to equal protection under the law, and (3) infringed upon their state constitutional right to a public education.

ARE YOU AFFECTED?

This lawsuit affects all African Americans and Latinos self-identified as such in official records who have been students in the Berkeley Unified School District and who have been involuntarily excluded from comprehensive school or involuntarily reassigned from comprehensive school programs to noncomprehensive school programs, (such as county community schools, continuation schools, home-hospital instruction programs, and independent study programs), for alleged violations of the District's student conduct rules without having received appropriate due process of law. Due process involves being clearly informed of what the alleged misconduct was and given an appropriate opportunity to tell your side of the story at a hearing.

WHAT ARE THE TERMS OF THE AGREEMENT?

After extensive negotiation, the parties in the case recently reached a Settlement Agreement. Under the Agreement the Plaintiff Class agrees to release the Berkeley Unified School District from all claims, demands, liabilities, and damages—including monetary damages, relating to the lawsuit in exchange for the following:

- BUSD will revise its policies to ensure that no student is unlawfully excluded from school.
- BUSD will immediately reinstate class members to comprehensive school programs.

BUSD will correct student records where it is found that the class member's exclusion from school was not lawful.

To try to ensure that affected class members will be able to graduate on time, BUSD will provide class members with individualized plans to (1) receive compensatory educational services and (2) earn credits as quickly as possible to regain those that can be demonstrated as lost due to the District's unlawful exclusion of the student.

BUSD will establish a plan to reduce disproportionality in the number of African-American and Latino students recommended for expulsion, formally expelled, and reassigned to alternative school programs.

A Students' Rights Monitoring Committee will review and assess BUSD's compliance with all aspects of the Settlement Agreement.

BUSD will pay attorneys for Plaintiffs reasonable fees and costs in the amount of

\$50,000.

WHAT ARE YOUR OPTIONS?

Class members have the right to agree or disagree with the Settlement Agreement, but may not to opt-out of the class. Before deciding to approve the Settlement Agreement, the Court will consider any comments or objections made by class members at a hearing on August 3, 2005 at 1:00 p.m. in front of Judge Wayne D. Brazil at the District Court for the Northern District of California, 1301 Clay Street, 3rd floor, courtroom 4 in Oakland. If you are in agreement with the Settlement Agreement, you do not need to take any action at this time. However, class members who wish to object, should file written statements that identify what they object to and that explain why they object. These written statements must include the Class Members' names, addresses, contact telephone numbers, and email addresses if available indicating their objection to the Settlement Agreement. These statements must be filed with the U.S. District Court in Oakland by no later than July 11, 2005. Class members may file the statements at the courthouse or by mail to the Court's address above. Class members shall mail copies of the statements to the following addresses: Youth and Education Law Project, 559 Nathan Abbott Way, Stanford, CA 94305 and Atkinson Andelson Loya Rudd & Romo, 5776 Stoneridge Mall #200, Pleasanton, CA 94588.

HOW CAN YOU GET MORE INFORMATION?

You can find out more information about this class action and the fairness hearing and get a complete copy of the Settlement Agreement at www.lsc-sf.org or www.law.stanford.edu/clinics/yelc or by calling Legal Services for Children at 415-863-3762 or the Youth and Education Law Project at 650-723-4336.