



# Bricker Bullet

BRICKER BULLET NO. 2019-04

DECEMBER 4, 2019

## ODE's 12.02.2019 Notice Regarding Doe v. Ohio Department of Education

On Monday, you likely received a Notice from the Ohio Department of Education regarding a proposed class action settlement, requesting that you post a *Notice of Proposed Settlement* on your district website and in central locations in your buildings, as well as distribute the notice to all parents and students. What is this request all about?

*Doe v. Ohio Department of Education* derived from a lawsuit that was filed in 1991 (*Thompson v. State of Ohio*) alleging that Ohio's special education system did not provide students with a free appropriate public education and was discriminatory against students with disabilities. Doe and the Ohio Legal Rights Service (now Disability Rights Ohio) were granted leave to intervene in the case in 1994. The current phase of the litigation began in October 2009, after the parties entered into a limited consent decree. In October 2009, the court issued an order approving a partial settlement agreement reached by the parties. The consent order resolved claims concerning ODE's implementation of IDEA, but did not address the funding of special education and related services. The agreement addressed: (1) the way ODE monitors compliance with the IDEA; (2) requests for waivers of state standards for the delivery of special education services; (3) investigation of state-level complaints filed by parents; and (4) corrective action to be taken when a school district does not meet state or federal standards.

In June 2010, the Ohio Legal Rights Service filed an amended class action suit, asking the Court to declare Ohio's system of funding and providing services to students with disabilities unconstitutional. On November 15, 2019, the Court issued an *Order*

*Granting Preliminary Approval of Class Settlement* which states that a copy of the notice will be made available to any affected student or such student's parent or guardian upon request. The tentative settlement agreement requires ODE to develop a plan for a redesigned state support system for special education, with a particular focus on 11 school districts (Akron, Canton, Cleveland, Cincinnati, Columbus, Dayton, Toledo, Youngstown, Lima, Zanesville, and East Cleveland). An Advisory Group will be formed to assist ODE in developing the plan.

The Court's Order requires that ODE post the notice of the proposed settlement on its website, and disseminate a copy of the notice to all local educational agencies (LEAs) and ask that the notice be posted on the LEA's website and in a central location accessible to the public in each of its buildings open to the public. ODE must also request that each district disseminate the notice directly to parents or students through email, any electronic portals (e.g. parent/student portals used to distribute grades, assignments, forms, etc.), or any other means reasonably calculated to reach the parents or students in that district. This is why your district received the request from ODE, even if it is not among the 11 school districts that are the focus of the litigation and settlement.

Class members may comment on the Settlement within 60 days of the court's Order (by January 14, 2020).

*Questions concerning the above may be referred to any of the [Education Practice Group at Bricker & Eckler LLP](#).*

Please note: Bricker Bullets are provided to BASA members as an informational service courtesy of the law firm of Bricker & Eckler LLP, a BASA Premier Partner. They are not intended to serve as a legal opinion with respect to any specific person or factual situation.

Missed something? Earlier Bricker Bullets can be accessed by following [this link](#).

**Bricker & Eckler LLP**  
[www.bricker.com](http://www.bricker.com)

t: 614.227.2300  
f: 614.227.2390  
[info@bricker.com](mailto:info@bricker.com)

Follow us on Twitter  
[@BrickerEdLaw](#)