

AGREEMENT REGARDING BLACKMAN/JONES COMPENSATORY EDUCATION

**** Note:** On October 1, 2007, Defendants transferred the responsibility for providing Blackman/Jones Compensatory Education awards from DCPS to OSSE.¹

DCPS was required to send, within 60 days of the Court granting Final Approval of the Consent Decree, existing class members a copy of the Blackman/Jones Compensatory Education Catalog (the “Catalog”) and a letter describing the category of award to which each student was entitled. By November 2006, the Catalog has been mailed to all 6,510 existing class members. However, the mailing did not conform to the requirements of paragraph 79 of Consent Decree because no proof of delivery was obtained by the subcontractor DCPS selected to conduct the mailing. Since the original mailing to the 6,510 known class members in November 2006, DCPS has not subsequently notified any “future” class members of their entitlement to Blackman/Jones compensatory education as required by paragraph 77 of the Decree.

OSSE is committed to a renewed effort to reach those remaining students on the original list who have not yet accessed the awards that are available to them as class members and to make contact with those students who have become class members since the original list was compiled. In order to bring Defendants into compliance with the Consent Decree provisions regarding Blackman/Jones compensatory education, the parties agree as follows:

- I. For the purposes of this effort, the parties have agreed to the following two categories of class members:
 - A. “Current Class Members” are:
 1. Those class members from the original list of 6,510 class members who have not yet elected to receive products and/or services from the Catalog or have not opted out of the Catalog award by affirmatively requesting an MDT meeting to determine an appropriate award.
 2. All students who have become Blackman/Jones class members since the date the original class list was generated² through March 1, 2008.³

¹ As part of the transfer, the dedicated funding for Blackman/Jones Compensatory Education was transferred as well on October 1, 2007. OSSE is now fully in control of spending from this fund and no memorandum of understanding with DCPS is necessary to ensure access to these funds to implement this agreement.

² OSSE, working with Klemm Analysis Group, should identify this date as soon as possible.

³ This date in the future has been selected by the parties as a way of recognizing that, until there are improvements in Student Hearing Office administration and other functions, it is unlikely that OSSE, like DCPS before it, will have the capacity to identify and notify class future class members of award eligibility on a rolling basis.

- B. "Future Class Members" are "all class members who join the class after March 1, 2008." The identification, notification and treatment of these class members will be discussed by parties at a later date.

II. **Awards:** To improve the administration of the award program and encourage selection of awards by class members, the parties have agreed to simplify the awards choices offered to Current Class Members.

- A. All Current Class Members will be offered the choice of either:

1. Desktop Computer, pre-loaded with Microsoft Vista (or its Apple equivalent, believed to be Mac OS X Leopard) and Microsoft Office (Home and Student Version), plus 2 software items selected by the current class member⁴,
2. Notebook Computer, pre-loaded with Microsoft Vista and Microsoft Office (Home and Student Version), plus 2 software items selected by the current class member,
3. MacBook Pro (Apple notebook), pre-loaded with the Apple equivalent of Microsoft Vista (believed to be Mac OS X Leopard) and Microsoft Office (Home and Student Version) plus 2 software items selected by the current class member, or
4. For those current class members who would benefit more from goods or services other than a computer, they will be invited to call OSSE to discuss the alternatives that were previously offered in the Best Buy Blackman/Jones Compensatory Education Catalog (Catalogue), including transition services (i.e. GED program, tutoring, or counseling) or assistive technologies (i.e. wheelchair, physical therapy devices, or other goods or services contained in the Best Buy catalog). All options that were made available in the Catalogue will continue to be available to current class members.

- B. The parties will attempt to reach agreement, by March 1, 2008, on Blackman/Jones compensatory awards for future class members.

III. **Outreach**

- A. Mailed notices with delivery confirmation will be followed by telephone calls to class members who have not responded within 30 days.

⁴ It is anticipated that the selection of the additional software items will occur in one of two ways: 1) A Best Buy voucher or gift card that will enable the current class member to select educational software at a Best Buy Store will be provided with each selected computer, or 2) Best Buy will provide current class members a list of software titles from which they will be able to select two items.

- B. A community-based contractor will be retained to develop and implement a process to make contact with and give notice to class members who remain unresponsive after mailing and calling efforts.
 - 1. By February 1, 2008, OSSE will draft an appropriate RFP for this contract for the review of plaintiffs and the Evaluation Team.
 - 2. The contractor will be retained to begin work no more than 90 days after notice is mailed and will continue outreach efforts for a number of days, not less than 60 days, that will be agreed to between plaintiffs and defendants.
 - 3. The contractor will be required to advise parents of the services available at the Parent Resource Center.
 - 4. Compensation for the contractor will be tied in part to successful delivery of awards to recipients.
- C. Defendants will keep plaintiffs apprised of the progress of the notice and outreach efforts. Defendants will advise plaintiffs in writing of when the notice and outreach efforts required in this agreement have been completed, after which time no further notice or outreach to current class members will be required. If the plaintiffs disagree with defendants' representation in this regard, the matter will be referred to the Monitor, who will determine what, if any, further outreach is required by this agreement.
- D. Any current class member, who, within 90 days of the completion of outreach efforts, fails to inform OSSE (a) of the choice of an award or (b) that the class member chooses to seek compensatory education by the means otherwise available under the Consent Decree waives the right to Blackman/Jones compensatory education.

IV. **Identification and Written Notification of Current Class Members**

- A. By January 1, 2008, OSSE will compile and provide to plaintiffs the following two lists:
 - 1. A list of all students who have become Blackman/Jones class members since the date the original class list was generated.
 - 2. A list of all students for whom Klemm Analysis Group has been unable to determine class membership status due to lack of implementation information. Defendants will have until January 15, 2008 to determine whether the students are class members. In all cases where DCPS is unable to verify timely implementation of an HOD, the student will be considered a current class member.

- B. By January 1, 2008 OSSE will propose, in writing, a work plan that, at minimum, includes the following:
 - 1. mailing procedures (for example, what business process will be followed to carry out the next mailing),
 - 2. draft text for the mailing for review and comment by plaintiffs and the Evaluation Team,
 - 3. the terms under which OSSE will use Best Buy and other third party contractors, if any,⁵
 - 4. telephone follow-up procedures, including documentation procedures, and
 - 5. any projected staffing needs and proposals to address them.
- C. By January 1, 2008 OSSE will produce a list of all current class members that contains the most up-to-date contact information available to DCPS and/or OSSE including information from the school census and the transportation database.
- D. By February 1, 2008 OSSE, through its third-party vendor, will have mailed a notice of award to all current class members.
- E. By March 1, 2008, follow up calls to class members will commence under the terms of the OSSE's work plan.

⁵ As soon as possible, OSSE should determine from Best Buy the product specifications of the computers to be offered and whether software vouchers will be offered of a software selection list will be provided.