

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ELSA GULINO, MAYLING RALPH, PETER WILDS, :  
and NIA GREENE, on behalf of themselves and all others :  
similarly situated, :  
: 96 Civ. 8414 (KMW)  
Plaintiffs, :  
: - against - :  
THE BOARD OF EDUCATION OF THE CITY :  
SCHOOL DISTRICT OF THE CITY OF NEW YORK, :  
Defendant. :  
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**NOTICE OF PENDENCY OF RULE 23(B)(3) CLASS ACTION**

**TO: All African-American and Latino individuals employed as New York City public school teachers by the Board of Education of the City of New York on or after June 29, 1995, who failed to achieve a qualifying score on an administration of the Liberal Arts and Sciences Test (“LAST”) given on or before February 13, 2004, and as a result either lost or were denied a permanent teaching appointment.**

1. Why did I receive this Notice?

The Court presiding over this lawsuit has determined that the LAST unlawfully discriminates against African Americans and Latinos. As a result, the Court has found that the Board of Education of the City School District of the City of New York (“BOE”) violated Title VII of the Civil Rights Act of 1964 by requiring African-American and Latino teachers who were employed by the BOE to pass the LAST as a condition of retaining, or being appointed to, a full-time teaching position. You are receiving this Notice because records from the BOE and the New York State Education Department (“SED”) indicate that you may be a member of the class in this case certified under Federal Rule of Civil Procedure 23(b)(3) (the “Class”) and your rights may be affected by the pending litigation.

2. Who is included in the Class?

The Class is defined as follows: All African-American and Latino individuals employed as New York City public school teachers by Defendant, on or after June 29, 1995, who failed to achieve a qualifying score on an administration of the LAST-1 given on or

before February 13, 2004, and as a result either lost or were denied a permanent teaching appointment.

3. What claims have been made?

The Complaint alleges that the BOE violated Title VII of the Civil Rights Act of 1964 by (1) conditioning the receipt of a regular license and permanent teaching appointment on obtaining a passing score on the LAST, and/or (2) demoting those who had obtained a regular license but failed to pass the LAST as part of obtaining maximum requirements for the license. The Complaint seeks damages that include back pay, unpaid benefits, restoration of seniority, and pension credits.

4. Do I need to do anything?

You have three options:

Option 1) If you wish to remain in the Class, there is nothing for you to do at this time. You will be bound by any judgment or order the Court may enter, whether it is favorable or unfavorable. If there is a monetary settlement or recovery for plaintiffs, you may be entitled to receive a portion of the proceeds of that settlement or recovery. If there is ultimately no recovery, you will not be able to pursue a lawsuit on your own against the BOE regarding the same issues in this lawsuit. You do not lose the right to pursue any action against the BOE for any issues unrelated to those involved in this case. If you remain in the Class, you will be represented by the attorneys for the Class.

Continue to watch for additional notices that you will receive about this litigation and respond to them promptly. Additional information will be needed for you to recover any monetary relief.

Option 2) You may remain in the Class, but retain separate counsel. It is your right to be represented by counsel of your choosing. At this time you are represented by the Class counsel, indicated below. If you retain separate counsel, you and your separate counsel will be responsible for pursuing any recovery you are entitled to in this action.

Option 3) You may exclude yourself from the Class and pursue a claim for the individual relief that has been asserted on your behalf in this case on your own. If you withdraw from the Class, you will not be represented by Class counsel in your claim for monetary relief. If you withdraw from the Class, you will remain part of a previously-

certified class for purposes of classwide injunctive relief. Details concerning how to be excluded from the Class are listed below.

5. If I currently am employed by the BOE, can the BOE fire me or take other action against me if I participate in this case?

No. The law prohibits the BOE from firing or otherwise discriminating against any employee for participating in this case.

6. What if I do not want to be a part of the Class?

You have the right to be excluded from this Class. If you would like to exclude yourself, you must send a written request stating that you want to be excluded from *Gulino v. Board of Education* to:

Gulino v. Board of Education  
PO Box 9000 #6543  
Merrick, NY 11566-9000

The request for exclusion must include your name, address, be signed by you, and be postmarked no later than September 15, 2014. You may not exclude yourself by telephone or email.

If you exclude yourself, you will not be entitled to share in any monetary settlement or recovery that may be obtained on behalf of the Class, but you may pursue a lawsuit on your own involving the same issues in this lawsuit relating to possible entitlement to individual relief. The time to pursue your monetary claims if you withdraw from the Class is limited. Do not wait to retain separate counsel or pursue your claims after you withdraw from the Class.

7. Who are the attorneys representing the Class?

The Class is represented by the following attorneys:

Joshua S. Sohn, Esq. DLA Piper LLP (US) 1251 Avenue of the Americas New York, New York 10020	Joel Hellman, Esq. 155 North Michigan Avenue, Suite 501 Chicago, Illinois 60601	Baher Azmy, Esq. Center for Constitutional Rights 666 Broadway, Seventh Floor New York, New York 10012
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8. Who is the Class representative?

The Class Representative is Peter Wilds.

9. What happens next?

In the near future, you will receive a claim form that will be mailed by a third-party claims administrator. If you wish to make a claim for monetary or other relief (such as restoration of in-system seniority), you must complete and return the claim form. You are free, and encouraged, to contact plaintiffs' counsel at no cost for assistance in the claims process. You may be entitled to collect the value of lost salary and benefits you would have earned as a regularly-licensed teacher after you did not pass the LAST. The law requires that any monetary damages an individual plaintiff is entitled to receive must be off-set by other income that was earned or which, in certain circumstances, could have been earned after the plaintiff was discriminated against. A plaintiff may also be required to provide documents, certain information, and appear for one or more hearings to establish his or her claim.

10. You are encouraged to contact The Garden City Group, Inc. for additional information or to provide contact information.

The plaintiffs' counsel would like to gather contact information for all potential class members and encourages you to contact The Garden City Group, Inc. at the address below. YOU DO NOT NEED TO CONTACT THE GARDEN CITY GROUP, INC. AT THIS TIME TO REMAIN IN THE CLASS. CONTACTING THE GARDEN CITY GROUP, INC. AT THIS TIME IS OPTIONAL AND IS AT NO COST TO YOU. If you would like to provide your contact information, have questions about the case, or would like to obtain additional information, please contact The Garden City Group, Inc. at:

<b><u>Mail</u></b> Gulino v. Board of Education PO Box 9000 #6543 Merrick, NY 11566-9000	<b><u>E-mail</u></b> questions@gulinolitigation.com
<b><u>Phone</u></b> (844) 322-8233	<b><u>Website</u></b> www.gulinolitigation.com

PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE TO OBTAIN ANY INFORMATION OR ADVICE.