

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ELSA GULINO, MAYLING RALPH, PETER WILDS, and NIA GREENE, on behalf of themselves and all others similarly situated,

Plaintiffs,

- against -

THE BOARD OF EDUCATION OF THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK,

Defendant.

96 Civ. 8414 (KMW)

NOTICE OF PENDENCY OF CLASS ACTION

To: All African-American or 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 the Liberal Arts and Sciences Test ("LAST") administered on or after February 14, 2004, and as a result either lost or were denied a permanent teaching position.

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 produced by the New York State Education Department ("SED") and the BOE indicate that you may be a member of the class and your rights may be affected by the pending litigation. These records suggest that you took and failed to achieve a qualifying score on the Liberal Arts and Sciences Test administered on or after February 14, 2004 ("LAST-2"). These records also indicate that you either identified yourself as African-American, Latino, or Other; or the SED does not have information about your race or ethnicity.

2. Who is included in this litigation?

The class in this case is defined as: 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 any administration of the Liberal Arts and Sciences Test, and as a result either lost or were denied a permanent teaching position.

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 (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. What is the status of the case today?

On June 5, 2015, the Court determined that the BOE violated Title VII law by using the LAST-2 to make employment decisions, and on October 7, 2016 the Court amended the class definition to include individuals who failed the LAST-2 as well. All class members (including the individuals who failed the LAST-2) are now able to participate in the damages phase of the case.

5. 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 for any issues related to those involved in this case. However, 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 and to determine your eligibility to injunctive 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 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 for monetary relief. Details concerning how to be excluded from the class are below.

6. If I am currently 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.

7. 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
EXCLUSION REQUEST
PO Box 9000 #6543
Merrick, New York 11566-9000

The request for exclusion must include your name, address, be signed by you, and be postmarked no later than **January 2, 2017**. You may not exclude yourself by telephone or email.

If you exclude yourself, you will not be entitled to share in any 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 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.

8. Who are the attorneys representing the class?

The class is represented by the following attorneys:

Joshua S. Sohn, Esq.
Watson Farley & Williams LLP
250 West 55th Street
New York, New York 10019

Rachel Stevens
DLA Piper LLP (US)
1251 Avenue of the Americas
New York, New York 10020

9. Who is the class representative?

The class representative is Peter Wilds.

10. What happens next?

The first step in this process will be completing a claim form. In the near future, you will receive a claim form that will be mailed to you by the Garden City Group, LLC ("GCG"), a third-party claims administrator. If you wish to make a claim for monetary or other relief, you must complete and return the claim form and the release form for Social Security Administration records. You are free, and encouraged, to contact class counsel, at no cost, for assistance in the claims process.

Before damages are awarded, each individual class member will be required to show that he or she either lost or was denied a permanent teaching position as the result of failing the LAST. In addition, the law requires that any damages to which an individual class member is entitled must be off-set by other income that was earned or which, in certain circumstances, could have been earned after the class member was discriminated against. A class member may also be required to appear for one or more hearings to establish his or her claim. Class counsel will contact you in the future to gather documents and information necessary to process your individual damage claim.

11. You may contact GCG for additional information or to provide contact information.

Class counsel would like to gather contact information for all potential class members and encourages you to contact GCG at the address below. **YOU DO NOT NEED TO CONTACT GCG OR CLASS COUNSEL AT THIS TIME TO REMAIN IN THE CLASS. CONTACTING GCG AND CLASS COUNSEL AT THIS TIME IS OPTIONAL IF YOU CHOOSE TO REMAIN IN THE CLASS.** If you would like to provide your contact information to GCG, have questions about the case, or would like to obtain additional information, please contact GCG.

Mail

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

E-mail

questions@gulinolitigation.com

Phone

(844) 322-8233

Website

www.gulinolitigation.com

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

PLEASE DO NOT CONTACT THE ATTORNEYS FOR THE BOARD OF EDUCATION TO OBTAIN ANY INFORMATION OR ADVICE.