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for people with disabilities

## **FOR IMMEDIATE RELEASE**

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### **Federal Judge Gives Preliminary Approval of Consent Order in Partial Settlement of *Doe v. State of Ohio* Class Action Education Lawsuit**

Settlement Establishes Ohio Department of Education's Procedures for  
Implementing the Individuals with Disabilities Education Act

COLUMBUS, July 2, 2009 -- Federal Judge John D. Holschuh of the U.S. District Court for the Southern District of Ohio, Eastern Division, gave his preliminary approval of a consent order in the *Doe v. State of Ohio* lawsuit filed by Ohio Legal Rights Service (OLRS). This settlement brings Ohio into line with federal regulations regarding the Ohio Department of Education's (ODE) monitoring of school district special education programs and investigation of complaints filed by parents or students. The consent order includes a number of procedural safeguards resulting in transparent processes, increased notices to parents and more timely complaint decisions.

The settlement requires ODE to:

- Ensure public access to information from the state's monitoring activities and to publicly post local school districts' compliance with the Individuals with Disabilities Education Act (IDEA) requirements.
- Provide oversight when waivers are requested to bypass specific special education service delivery ratios (class size, provider to student ratios, etc.). Parents whose children with disabilities may be affected by these waivers must be given notice of such requests before a decision is made on the waiver request.
- Provide additional notice to parents/guardians about the complaint process and information about advocacy resources after a state-level complaint is filed.
- Conduct a more thorough investigation of complaints about claimed violations of rights under the IDEA and ensure that violations of the law are corrected in a timely manner.
- Deny complaint timeline extensions (except in extraordinary circumstances) unless the request is agreed to by both the parent/guardian and the school district.
- Require a school district to correct deficiencies within a year when the district fails to meet federal or state standards.

OLRS staff attorney Jason Boylan said, "The settlement requires ODE to identify and correct violations of federal and state special education statutes to ensure proper implementation of IDEA for Ohio's school children with disabilities." Plaintiff Jason Johnson from Washington County is excited about the procedural changes included in the consent order that affect children with disabilities and their families. "We can only hope that these procedures will lead to more transparency that will help other children in the future," said Johnson.

Other aspects of the class action suit, the funding of special education and related services for students with disabilities, are not included in the consent order. According to OLRs Chief Legal Counsel Sue Tobin, "We are pleased Judge Holschuh has given his initial approval of the consent order but this is only a partial settlement. The school funding aspects of the case will continue to trial."

In *Doe v. State of Ohio*, OLRs represents eight students with disabilities, their parents, and a plaintiff class of over 250,000 Ohio students with disabilities. OLRs brought the case to ensure that state officials were meeting their obligations to ensure that children with disabilities receive a free appropriate public education (FAPE) under the IDEA, and because of the impact that inequities in Ohio's school funding scheme have on the education of these children. Plaintiffs seek relief under IDEA, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973 and the U.S. Constitution.

Notice will be given to class members and a hearing on the fairness of the agreement will be held. The court is then expected to give final approval of the order and the provisions of the agreement will become effective.

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If you would like more information, visit [www.olrs.ohio.gov](http://www.olrs.ohio.gov) or contact Thomas Hemmert at 614-466-7264 or [themmert@olrs.state.oh.us](mailto:themmert@olrs.state.oh.us).