



**NEWS RELEASE**

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**Department of Education Fails to Meet First Benchmark  
in Class Action Settlement**

New York City. Advocates for Children of New York (AFC) announced the release of a report by the Independent Auditor appointed by the United States District Court for the Southern District of New York to monitor the New York City Department of Education's implementation of hearing orders requiring services for students with disabilities. The report, which was required under a settlement of a class action lawsuit, showed that the DOE failed to meet the first set of targets set by the settlement. The full report is available at [www.advocatesforchildren.org](http://www.advocatesforchildren.org).

In 2003, AFC filed a lawsuit on behalf of parents of students with disabilities in New York City's public schools whose impartial hearing orders were not being timely implemented by the DOE. The DOE's failures resulted in students not receiving critical services, including in some instances being excluded from school altogether. Under the terms of a settlement agreement approved in April 2008, the DOE agreed to provide compensation to certain students whose orders had not been implemented and improve its systems to implement impartial hearing orders. To ensure that the DOE more effectively implements orders, the settlement agreement requires the DOE to meet a series of benchmarks and provides that the DOE's implementation will be monitored by an Independent Auditor.

After expending substantial effort to review the DOE's processes and implementation, the Independent Auditor has issued its report regarding the DOE's compliance with the first set of benchmarks. That report indicates that in total, the DOE timely implemented 51.6% of the impartial hearing orders issued between June 1, 2008 and November 30, 2008, below the benchmark requirements. The Independent Auditor identified three types of orders that the DOE failed to implement by particularly significant margins. During the first benchmark period, the DOE failed to timely implement 84.3% of orders that required the assignment of a special education teacher to provide support for preschool-age students with special needs. The DOE also failed to timely implement 68.9% of orders that required the DOE to provide Applied Behavior Analysis services to students with autism and 64.5% of orders that required the DOE to provide tutoring services.

Because the DOE failed to comply with the first benchmark, it must now formulate and implement a Corrective Action Plan designed to increase the full and timely implementation of impartial hearing orders.

"Although we had hoped that the DOE would meet the first set of benchmarks called for by the settlement, we are pleased that the Independent Auditor was able to conduct a comprehensive review and are hopeful that the DOE will design a Corrective Action Plan that ensures timely implementation of impartial hearing orders to meet the needs of students," stated Rebecca Shore, Director of Litigation at Advocates for Children of New York.

*Advocates for Children of New York, Inc. (AFC) is a citywide advocacy organization whose mission is to promote access to the best education New York can provide for all students, especially students of color and students from low-income backgrounds. AFC uses uniquely integrated strategies to advance systemic reform, empower families and communities, and advocate for the educational rights of individual students.*

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