

NOTICE OF PENDING CLASS ACTION SETTLEMENT AND NOTICE OF PROPOSED SETTLEMENT

Certain ACT Test examinees who tested with disability-related accommodations as part of ACT’s Special Testing (rather than as part of National Testing) or who reported disability information to ACT when they completed the Student Profile Section may be eligible for benefits from a class action settlement.

THIS IS A NOTICE OF A SETTLEMENT OF A CLASS ACTION LAWSUIT.

YOU ARE NOT BEING SUED.

- **A federal court authorized this Notice. This is not a solicitation from a lawyer.** A settlement has been reached with ACT, Inc. (“ACT”) (the “Settlement”) in a class action lawsuit, *Bloom, et al. v. ACT, Inc.*, Case No. 2:18-cv-06749-GW-KS (C.D. Cal.) (the “Lawsuit”). The plaintiffs who filed the Lawsuit (the “Named Plaintiffs”) alleged that ACT violated certain laws by (1) reporting the disabilities of examinees or otherwise identifying examinees with disabilities on college score reports, (2) denying examinees who tested with accommodations as part of Special Testing (as opposed to National Testing) an equal opportunity to participate in ACT’s Educational Opportunity Service, a service offered to colleges to assist in their efforts to recruit applicants, and (3) permitting colleges to search for prospective applicants through EOS on the basis of the existence and type of their disabilities.
- **ACT denies the Named Plaintiffs’ allegations.** However, as part of the Settlement, ACT has agreed under a consent decree to stop or change certain practices related to the collection and use of disability-related information and the ways for Special Testing examinees to enroll in EOS (the “Consent Decree”). All Class Members in the United States (as defined in the Consent Decree, *see* Question 2 below) have rights under the Consent Decree. In exchange, all Class Members will release their right to seek further injunctive relief from ACT related to the facts alleged in the Lawsuit, the collection or disclosure of disability or disability-related information in connection with the ACT Test, enrollment in the Educational Opportunity Service, or disclosure of disability-related information through the Educational Opportunity Service.
- If, according to ACT’s records, you resided in California at the time you took the ACT Test or took the ACT Test in California, you may also be entitled to compensation under the Settlement. The Settlement provides \$16,000,000 as a Settlement Amount to resolve claims asserted under California law on behalf of certain individuals who reside or took the ACT Test in California. The Settlement Amount—minus administrative costs, service awards to the Named Plaintiffs, and attorneys’ fees and expenses for Class Counsel—will be distributed to certain California ACT examinees who tested with disability-based accommodations as part of ACT’s Special Testing program (as opposed to National Testing) or who reported their disabilities to ACT during exam registration or administration (the “California Class”). If you are a potential Class Member (*see* Question 2) but did not reside in California at the time you took the ACT Test or did not take the ACT Test in California, then you are not entitled to receive any monetary payment pursuant to this Settlement.
- In settling the Lawsuit, ACT does not admit or concede any liability or wrongdoing whatsoever to Named Plaintiffs or any Class Members and expressly denies any such liability or wrongdoing. ACT further disputes that any Settlement Class Member, including Named Plaintiffs, has sustained any damages or injuries due to the alleged acts. The Court has made no finding that ACT engaged in any unlawful conduct.
- This Notice contains information about the Settlement and the Lawsuit. It is critical that you read this entire Notice carefully, because your legal rights are affected whether or not you act.

As described in more detail below, the Settlement automatically distributes payments to you if you received this Notice by mail or email and do not opt out of the Settlement or inform the Settlement Administrator that you are not a Class Member. **YOU MUST CONTACT THE SETTLEMENT ADMINISTRATOR TO PROVIDE AN UPDATED ADDRESS IF THE ADDRESS INFORMATION ON THE NOTICE IS NOT ACCURATE. OTHERWISE, YOU MIGHT NOT RECEIVE YOUR SETTLEMENT PAYMENT.**

YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT

ACTION	EXPLANATION
DO NOTHING	<p>If you received this Notice by mail or email, you are a member of the California Class and are eligible for a payment. If you do nothing, you will receive at least one, and potentially two, payments in exchange for giving up your right to assert claims against ACT based on the facts alleged in the Lawsuit that has been settled.</p> <p>In addition, anyone reading this Notice may be a member of the Settlement Class for injunctive relief purposes. If you do nothing, you will release your right to seek injunctive relief from ACT based on the facts alleged in the Lawsuit if the Court approves the Settlement.</p>
EXCLUDE YOURSELF BY SEPTEMBER 1, 2021	<p>You may choose not to receive a payment and not to participate in the Settlement as a member of the California Class. If you choose to exclude yourself (opt out), you will not be included in the Settlement, you will receive no payments, and you will keep any right you currently have to assert claims against ACT for damages based on the facts alleged in the Lawsuit. However, you will still be a Class Member for injunctive relief purposes and will release your right to seek injunctive relief from ACT based on the facts alleged in the Lawsuit if the Court approves the Settlement.</p>
OBJECT BY SEPTEMBER 1, 2021	<p>You may file objections to the Settlement, provided you have not chosen to opt out of the Settlement. If you do this, you will still be a Class Member but any payments that you or other Class Members receive will depend on whether the Court approves the Settlement and the terms upon which it does so. To object to the Settlement, you must write to the Court and explain your objection, as described more fully below.</p>

FREQUENTLY ASKED QUESTIONS

1. Why is there a Settlement? No court has decided in favor of either side in the Lawsuit. Named Plaintiffs and their lawyers believe that the claims they have made against ACT have merit, but that the proposed Settlement is fair and in the best interest of the Class because it provides a recovery for eligible Class Members now, while avoiding the risk, expense, uncertainty, and delay of continuing to pursue the Lawsuit. In reaching this conclusion, Named Plaintiffs and their lawyers considered the possibility that one or more of the Named Plaintiffs and many of the Class Members might be required to bring their claims individually in arbitration, and the possibility that the Lawsuit might ultimately result in no recovery whatsoever. ACT does not believe that the claims against it have merit. It is settling because it believes that it is in the best interests of its business and its examinees to enter into the proposed Settlement and avoid the costs and disruptions of extended litigation.

2. Who is in the Settlement Class? In the preliminary approval of the Settlement, the Court has approved two subclasses affected by the alleged practices that are entitled to receive monetary payments pursuant to the Settlement:

- *California Disclosure Class:* All individuals who, according to ACT’s records: (a) took a college-reportable ACT Test on or after September 1, 2002 and on or before August 2, 2020, (b) resided in California at the time they took the ACT Test or took the ACT Test in California, **and** (c) satisfy at least one of the following criteria: (i) such individual provided an Eligible Student Profile Section (SPS) Question 8 Response, or (ii) such individual was administered the exam through Special Testing. An “Eligible Response to SPS Question 8” means an affirmative answer, other than “no disability,” in response to ACT’s inquiry as to whether the individual had a disability that would require special provisions from an educational institution.
- *California EOS Class:* All individuals who, according to ACT’s records: (a) took a college-reportable ACT Test through Special Testing on or after September 1, 2007 and August 2, 2020, (b) resided in California at the time they took the ACT Test or took the ACT Test in California, **and** (c) left the response to the EOS Opt-In Query blank on the Special Testing answer folder for at least one exam.

In addition, the Court has approved an *Injunctive Relief Class* of all individuals in the United States who meet either of the following criteria: (a) took the ACT Test through Special Testing at any time, or (b) provided an Eligible SPS Question 8 Response at any time. This Class is not entitled to receive monetary payments (unless part of the California Class) but might benefit from injunctive relief from the Court.

3. If I am eligible, how much money will I get? ACT and certain of its insurers have agreed to pay \$16,000,000 into a settlement fund. After deducting administrative costs, service awards to the Named Plaintiffs who have served as Class Representatives, and attorneys’ fees and costs, a portion of the Net Settlement Amount will be automatically distributed to you in the form of a check. The amount of the payment will depend on how many individuals are eligible to participate in the Settlement and do not choose to opt out. If you are a member of the California EOS Class, you will receive two “shares” of the settlement

fund. If you are a member of the California Disclosure Class only, you will receive one “share” of the settlement fund. A share is equal to $[1/X]$, with X representing the total number of individuals in the California Disclosure Class plus the total number of individuals in the California EOS Class. The combined total of Class Members is 65,964.

The Settlement Administrator might also make a second distribution to those claimants who have cashed an initial payment check, in proportion to their participation in the settlement fund and depending on whether funds remain after payment of administrative costs. Whether a second payment is made will depend upon the discretion of Class Counsel, who also have the discretion to distribute any remaining funds to a Cy Pres Beneficiary.

4. Do I need a lawyer in this case?

The Court has appointed the following lawyers, known as Class Counsel, to represent the Class Members in connection with the Settlement:

Rahul Ravipudi (actlawsuit@psblaw.com)
Jesse Creed
Panish Shea & Boyle LLP
11111 Santa Monica Blvd., Suite 700
Los Angeles, CA 90025
Telephone: (310) 477-1700

Marci Miller (marci@milleradvocacy.com)
Miller Advocacy Group
1303 Avocado Ave., Suite 230
Newport Beach, CA 92660
Telephone: (949) 706-9734

You will not be charged for contacting these lawyers, and they will help you with any questions about your claim at no cost to you.

If you want to be represented by a lawyer other than Class Counsel, you are free to do so at your own expense.

5. How will the Class Counsel be paid? Panish Shea & Boyle LLP and Miller Advocacy Group have been approved by the Court as Class Counsel for the Settlement Classes. The Court has approved an award of attorneys’ fees and costs to Class Counsel in the amount of \$4,000,000. The payment of these attorneys’ fees and costs will reduce the benefits made available to the Class under the Settlement.

6. How much will the Named Plaintiffs be paid? ACT has agreed to pay the 11 Named Plaintiffs up to \$5,000 each from the Settlement Amount, and the Court has approved that payment amount.

7. What am I giving up if I remain in the Settlement? If you do nothing in response to this Notice, you will give up your right to object to the Settlement and your right to be excluded from the Settlement. If you are a California Disclosure Class Member or a California EOS Class Member and the Settlement is approved, you will automatically receive at least one payment in exchange for giving up your right to assert claims against ACT based on the facts alleged in the Lawsuit. **Please ensure the Settlement Administrator has your correct mailing address to send a settlement check.**

8. How do I tell the Court that I do not like the Settlement? You may write to the Court about why you object to (i.e., don’t like) the Settlement and think it should not be approved. Filing an objection does not exclude you from the Settlement.

To object to the Settlement, you must send the Court a written statement of objection. Be sure to include your name, address, telephone number, signature, the reason(s) you object to the Settlement and whether the objection applies only to you or to a specific subset of the California Classes, and the case caption, *Bloom, et al. v. ACT, Inc.*, Case No. 2:18-cv-06749-GW-KS (C.D. Cal.). If you are represented by counsel, the objection must be filed on the docket of this case through the Court’s Case Management/Electronic Case Filing (CM/ECF) system. If you are not represented by counsel, the objection must be mailed to the Clerk of the United States District Court for the Central District of California, 350 West First Street, Los Angeles, CA 90012 or filed with the Clerk of the Court at any location of the United States District Court for the Central District of California.

If you have not opted out of the Settlement and fail to object in the manner specified above, you will be deemed to have waived any objections and will be prohibited from later making any objection (whether by appeal or otherwise) to the settlement agreement. **The deadline for filing an objection is September 1, 2021.**

9. How do I exclude myself from participating in the Settlement? You may exclude yourself from the California Disclosure Class and/or the California EOS Class only. You may not exclude yourself from the Injunctive Relief Class. To exclude yourself, you must send a written request for exclusion (an “Opt-Out Request”) via U.S. Mail to the Settlement Administrator at *Bloom, et al. v. ACT, Inc.*, c/o KCC Class Action Services, P.O. Box 43434, Providence, RI 02940-3434, or submit an Opt-Out Request electronically on the settlement website listed below. Your Opt-Out Request must include (1) your full name, (2) your

email address, telephone number, and physical address, (3) a clear statement communicating that you elect to be excluded from the Settlement and do not wish to be a member of the California Disclosure Class and/or California EOS Class, (4) the case caption of the Lawsuit, *Bloom, et al. v. ACT, Inc.*, Case No. 2:18-cv-06749-GW-KS (C.D. Cal.), and (5) your signature. If you exclude yourself and the Settlement is approved, you will not receive any payment under the Settlement and you will retain your right to file your own claims for damages in arbitration or court against ACT, subject to any applicable statute of limitations or other legal constraints. **Even if you exclude yourself from the Settlement, you will remain a member of the Injunctive Relief Class.**

Any Opt-Out Request must be postmarked (as determined by the date of the postmark on the return mailing envelope) or electronically submitted on or before September 1, 2021 (the “Opt-Out Deadline”). Class Members who fail to submit a valid and timely Opt-Out Request on or before the Opt-Out Deadline shall be bound by all terms of the approved settlement agreement and the preclusive effect of the Settlement. No “mass” or “class” opt outs are permitted. Each Class Member must individually opt out of the California Classes. **The deadline for filing an Out-Out Request is September 1, 2021.**

10. What if I never took the ACT Test? If you never took the ACT Test, or if you took the ACT Test but never disclosed any information regarding a disability to ACT, then you are not entitled to receive any payment in connection with this Settlement. If you nevertheless received Notice indicating you might be a Class Member, please contact the Settlement Administrator and inform them that you are not a Class Member and do not cash any check that you might receive.

11. When will I know if the Settlement has been approved by the Court? On April 1, 2021, the Court held a “Fairness Hearing” to consider the Settlement, the request for attorneys’ fees and costs by Class Counsel (for \$4 million), and the Named Plaintiffs’ request for service awards (in the total amount of \$50,000 or \$5,000 each) for bringing the Lawsuit. Due to the addition of additional class members like yourself, the Court has set a “Further Fairness Hearing” for September 13, 2021. You may, but are not required to, speak at the Further Fairness Hearing about any objection you filed to the Settlement. If you desire to speak at the Further Fairness Hearing, you must also submit a “Notice of Intention to Appear” to the Court and the parties’ attorneys, indicating your desire to do so. You must send a letter stating that it is your “Notice of Intention to Appear in the *Bloom, et al. v. ACT, Inc.* Class Action Settlement Further Fairness Hearing.” Be sure to include all the information required for the objection (see Question 8, above). Mail the Notice to the Court, and send a copy by fax, U.S. mail, or email to Class Counsel and Defense Counsel at the addresses listed below.

COURT
Clerk of the Court
United States Courthouse for the Central District of California
350 West First St.
Los Angeles, CA 90012

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For more information, contact the Settlement Administrator at 1-855-786-0914 or admin@ACTClassActionSettlement.com.