

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ASHA SMITH, Individually and On	:	CIVIL ACTION
Behalf of All Others Similarly Situated	:	
v.	:	
	:	
UNIVERSITY OF PENNSYLVANIA	:	NO. 20-2086

ORDER

NOW, this 19th day of July, 2023, upon consideration of the Joint Stipulation, modifying the settlement administration deadlines (Doc. No. 114), it is **ORDERED** that the stipulation is **APPROVED**.

IT IS FURTHERED ORDERED as follows:

1. On January 18, 2023, the Court granted Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement and Approval of Manner of Distribution of Net Settlement Fund.
2. During administration of the settlement, Penn identified an administrative error in which 270 students who fell within the definition of a Potential Settlement Class Member, as defined in paragraph 1(r) of the Settlement Agreement (Doc. No. 97-1), were incorrectly classified as being enrolled in a program that was online at the beginning of the Spring 2020 semester ("Additional Potential Settlement Class Members").
3. Because of this administrative error, the Additional Potential Settlement Class Members were not treated as falling within the definition of Potential Settlement Class Members. As a result, the Settlement Administrator was not directed to issue notice of the class action to the Additional Settlement Class Members.
4. Defendant shall reimburse the Settlement Administrator for any additional administrative costs incurred to resolve the administrative error.

5. The proposed Notice of Class Action Settlement (“Additional Class Notice”) submitted by the Parties as Exhibit A to the Joint Stipulation is approved.

6. No later than **July 31, 2023**, the Settlement Administrator shall issue the Additional Class Notice to the Additional Potential Settlement Class Members. The Settlement Administrator shall send, via email to persons listed on the Additional Potential Settlement Class Members List, the Additional Class Notice substantially in the form submitted to the Court; and if an email address is not listed for an Additional Potential Settlement Class Member on the Additional Potential Settlement Class Members List, the Additional Class Notice shall be sent by the Settlement Administrator to the Additional Potential Settlement Class Member’s last known mailing address via U.S. mail. The Additional Class Notice shall advise the Additional Potential Settlement Class Members of:

- a. the Settlement Agreement and its relevant terms;
- b. their rights under the Settlement Agreement;
- c. the URL to the Settlement Website;
- d. the toll-free telephone number to call for additional information; and
- e. the process for objecting and opting out of the settlement.

7. If the parties or the Settlement Administrator determine that notice by email did not reach an Additional Potential Settlement Class Member, the Settlement Administrator shall send the Notice by first-class mail.

8. If any notice mailed to an Additional Potential Settlement Class Member in accordance with paragraphs 6 and 7 of this Order is returned to the Settlement Administrator as undeliverable, the Settlement Administrator will promptly log each such

mailed notice and provide copies of the log to Penn and Class Counsel as requested. If the mailing is returned to the Settlement Administrator with a forwarding address, the Settlement Administrator shall forward the mailing to that address. For other returned mailings, a Lexis/Nexis name and address search or National Change of Address (NCOA) database search shall be conducted and those mailings shall be forwarded to any new address obtained through such a search. In the event that any mailed notice is returned as undeliverable a second time, no further mailing shall be required.

9. No later than **August 14, 2023**, the Settlement Administrator shall file proof of distributing the Short Form Notice as required by paragraphs 6 through 8 of this Order.

10. The manner of giving notice as prescribed in this Order satisfies the requirements of Fed. R. Civ. P. 23 and due process, constitutes the best notice practicable under the circumstances, and constitutes due and sufficient notice to all persons entitled to notice.

11. Any Additional Potential Settlement Class Member may, upon request, be excluded or “opt-out” from the Settlement Class. No Additional Potential Settlement Class Member may both opt-out of the Settlement and object to the Settlement; an Additional Potential Settlement Class Member must decide whether to opt-out of the Settlement or to object.

12. Each Additional Potential Settlement Member shall have the right to opt-out from the Settlement Class by mailing a request for exclusion to the Settlement Administrator postmarked no later than **September 11, 2023**. If there is no legible postmark, the request for exclusion must be received by the Settlement Administration on or before **September 25, 2023**. Any Additional Potential Settlement Member who

wishes to exclude himself or herself from the Settlement Class must comply with the terms set forth in the Long Form Notice and Settlement Agreement.

13. All persons who submit valid and timely written requests for exclusion as set forth in this Order and the Long Form Notice shall have no rights under the Settlement, shall not share in the distribution of the Settlement Fund, and shall not be bound by the Settlement or the Final Judgment entered in this Action.

14. Any Additional Potential Settlement Class Member who does not submit a timely, written request for exclusion from the Settlement Class will be bound by all proceedings, orders, and judgments in this litigation, even if the Additional Potential Settlement Class Member has previously initiated or subsequently initiates individual litigation or other proceedings encompassed by the claims released in this case, and even if such Additional Potential Settlement Class Member never received actual notice of this litigation or this proposed settlement.

15. Unless they have submitted a timely request for exclusion from the Class, Additional Potential Settlement Class Members and their legally authorized representatives will be preliminarily enjoined from raising claims released in the Settlement Agreement by:

a. filing, commencing, prosecuting, intervening in, or participating as plaintiff, claimant, or class member in any other lawsuit or administrative or regulatory proceeding, arbitration, or other proceeding in any jurisdiction;

b. filing, commencing, or prosecuting a lawsuit or administrative or regulatory proceeding, arbitration, or other proceeding as a class action on behalf of any Additional Potential Settlement Class Members (including by seeking to amend a pending

complaint to include class allegations or seeking class certification in a pending action); and,

c. attempting to effect an opt-out of a group, class, or subclass of individuals in any lawsuit or administrative, regulatory, arbitration, or other proceeding based upon the claims released in the Settlement Agreement.

16. No later than September 11, 2023, each Additional Potential Settlement Class Member who does not timely opt out of the Settlement Class shall have the right to object to the settlement or the request by Class Counsel for an award of attorneys' fees and expenses by filing written objections with the Clerk of Court and serving copies of the objections on Class Counsel and Penn's counsel.

17. Objections must contain the following: (1) a heading that refers to this action by case name and case number; (2) a statement of the specific legal and factual basis for each objection; and (3) a list of other cases in which the objector or counsel for the objector has appeared either as an objector or counsel for an objector in the last five years.

18. Failure to timely file and serve written objections in compliance with paragraph 17 of this Order will preclude an Additional Potential Settlement Class Member from objecting.

19. No later than **October 2, 2023**, the Settlement Administrator shall file with the Clerk of Court and serve on counsel a list of all persons who have timely opted out of the Settlement Class with its determinations as to whether any request to opt out of the Settlement Class was not submitted timely; and it shall provide written notification to any Settlement Class Member whose request to opt out of the Settlement Class was untimely.

20. The Parties shall inform the Court whether any written objections are filed no later than **October 9, 2023**.

21. If no written objections are filed, the Settlement Administrator shall issue the Settlement Benefits no later than **November 6, 2023**.

22. If any written objections are filed, the deadline for the distribution of the Settlement Benefits will be **STAYED** until the Court has ruled on the objections.



TIMOTHY J. SAVAGE, J.