



Milbank

News Release

For Immediate Release

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Judge Orders Special Master to Address DOE Delays in Implementing Special Education Hearing Orders

January 29, 2021 (NEW YORK CITY) — Yesterday, a federal judge ordered that a Special Master be appointed over the New York City Department of Education's (DOE) implementation of hearing orders to provide or pay for services for students with disabilities.

When the DOE fails to provide appropriate educational services or school placements to students with disabilities, their parents may request an impartial hearing to enforce their children's rights. Following the hearing, an impartial hearing officer can order the DOE to provide services to a student or pay the cost of services or school tuition, but for years the DOE has failed to implement these favorable hearing orders in a timely fashion. Advocates for Children of New York (AFC) and Milbank LLP had filed the motion requesting the Special Master in connection with the class action lawsuit, *L.V. v. New York City Department of Education*, after years of the DOE failing to provide the ordered services that students with disabilities required. For example, between October 24, 2018 and January 21, 2019, the DOE implemented only 19.6% of hearing orders within the required 35 days.

Families request hearings as a last resort, after the DOE has denied their children the services or school placements they need to learn. Further delays in implementing these orders only exacerbate the harm to students with disabilities, many of whom have had to wait months to receive services they were awarded by an impartial hearing officer, and to their families, some of whom have waited up to a year to receive ordered reimbursement for services, causing financial hardship. Sustained delays in payment and implementation have resulted in providers terminating services, schools barring enrollment, and students who must wait even longer without the services and instruction that they need.

"For too many years, students with disabilities have been harmed by the DOE's failures in providing the services they need. We are hopeful that the Special Master will improve the DOE's implementation process so students will not have to wait any longer for ordered services," said Rebecca Shore, AFC's Director of Litigation.

"The appointment of a special master is the latest step in our 14-year saga to force the DOE to fulfill their legal obligation to provide educational services to students with disabilities in a timely manner," said Erik Wilson, an associate at Milbank. "The DOE's longstanding abdication of those responsibilities has caused immense harm to these students, their families, and the schools and providers of these services. We hope

that court-ordered improvements to DOE's systems and processes—based on the recommendations of an independent expert special master—will finally bring DOE into compliance and provide much-needed relief to those who rely on DOE for providing such services.”

About Advocates for Children of New York (AFC)

Since 1971, Advocates for Children of New York has worked to ensure a high-quality education for New York students who face barriers to academic success, focusing on students from low-income backgrounds who are at greatest risk for failure or discrimination in school because of their poverty, disability, race, ethnicity, immigrant or English Language Learner status, sexual orientation, gender identity, homelessness, or involvement in the foster care or juvenile justice systems. AFC uses four integrated strategies: free advice and legal representation for families of students; free trainings and workshops for parents, communities, and educators and other professionals to equip them to advocate on behalf of students; policy advocacy to effect change in the education system and improve education outcomes; and impact litigation to protect the right to quality education and compel needed reform.

About Milbank

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