



Advocates for Children of New York

Protecting every child's right to learn

News Release

For Immediate Release

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Federal Court Allows Lawsuit to Proceed Against NYC Department of Education for Failure to Provide Needed Services to Students with Disabilities

August 29, 2018 (NEW YORK CITY) — Yesterday, the federal district court for the Southern District of New York issued a decision allowing a lawsuit filed by Advocates for Children of New York (“AFC”) and Greenberg Traurig, LLP to proceed. The lawsuit alleged systemic failure on the part of the NYC Department of Education (“DOE”) to provide services, including nurses, to students with medical needs who require such services to attend school.

The DOE had moved to dismiss the case, but the Court denied the motion, finding the complaint sufficiently alleged that the DOE’s failure to provide needed services to the three plaintiffs was based on a systemic breakdown in the DOE’s practices, policies, and procedures governing the services it must provide to medically fragile children. Referring to the DOE’s process for approving school nurses as “Kafkaesque,” the decision states: “Instead of alleviating the burdens borne by disabled students and their families, the current policies spawn a cumbersome and counterintuitive bureaucracy that undermines the goal of educating these children.”

“We brought this case to address systemic legal violations in the DOE’s arcane process for approving nurses in schools and on buses. For parents of children who are medically fragile and need a nurse to be safe in school, the DOE should be doing all it can to ease the process, not placing hurdles at every step,” said Kim Sweet, Executive Director of AFC. “We are pleased that this decision will allow our claims to go forward and hope it will prompt the DOE to create a system that works for students with medical needs and their families.”

“This case is about medically fragile children being excluded from school,” said Caroline J. Heller, co-counsel with AFC and Chair of Greenberg Traurig’s Global Pro Bono Program. “We are delighted that the Court will be addressing our allegations of systemic violations and optimistic that the litigation will result in a positive change that will benefit New York City students.”

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.