

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JOSE P., et al.,

Plaintiffs,

CV 96 1834

-against-

STIPULATION

RICHARD MILLS, et al.,

Defendants.

-----X
UNITED CEREBRAL PALSY OF NEW
YORK CITY, INC., et al.,

Plaintiffs,

-against-

THE BOARD OF EDUCATION OF THE
CITY SCHOOL DISTRICT OF THE CITY
OF NEW YORK, et al.,

Defendants.

-----X
DYRCIA S., et al.,

Plaintiffs,

-against-

THE BOARD OF EDUCATION OF THE
CITY SCHOOL DISTRICT OF THE CITY
OF NEW YORK, et al.,

Defendants.

-----X
WHEREAS, a consolidated and amended judgment ("the
Judgment") was entered covering the above three actions, which
actions were originally commenced under docket numbers CV 79 270,
CV 79 560 and CV 79 2562 and are now covered by docket number 96

1834; and

WHEREAS, by letter dated February 22, 2002, plaintiffs alleged that the City and State defendants have failed to deliver timely, appropriate special education to members of the plaintiff class identified by the City defendants to be in need of placements in approved non-public schools because no appropriate placements currently exist for them in the New York City public school system, as reflected in the then current list generated by the City defendants' Central Based Support Team ("CBST") entitled "Active Day Students by CBST Code"; and

WHEREAS, the City and State defendants deny plaintiffs' allegations and aver that they have fulfilled all of their obligations under the Judgment and applicable law and regulations; and

WHEREAS, plaintiffs and the City and State defendants now agree to resolve all issues with respect to the issues identified herein;

NOW, THEREFORE, plaintiffs and the City and State defendants, through their undersigned attorneys, hereby stipulate and agree as follows:

1. In this stipulation, all references to Eligible Students are to those students in the plaintiff class who have been recommended for private day school placement by the Committee on Special Education ("CSE") or deferred to the CBST

(unless the case has been sent back to CSE by the CBST for an available public school placement) who have not been placed within the latest of: (a) 90 days from referral of the student to CSE; or (b) 30 days from receipt of the student's individual education plan ("IEP") by the CBST; or (c) the projected date of initiation of services. For purposes of this stipulation, an Eligible Student shall be deemed to have been placed when any of the following events occurs: (a) the student has been offered a private day school placement by the CSE and the student's parent or guardian accepts the offer; (b) the CSE determines, over a parental or guardian objection to an offered private day school placement, that the placement is appropriate; (c) the student's parent or guardian fails, after notice by mail to the address listed in the student's educational record and attempted phone contact from the CBST, CSE or private day school of the availability of a seat in a private day school program, to contact the CBST, CSE or private day school program regarding that program within ten business days of notification; or (d) the student begins attending a full-time public school program which meets the student's IEP specifications.

2. The City and State Defendants shall in good faith collaborate, as appropriate, to effectuate prompt appropriate educational placements for Eligible Students. The City and State Defendants shall share and exchange all available information

relevant to their respective obligations in the placement of Eligible Students. Without limitation of the City Defendants' obligations, the City Defendants shall continue to survey for available vacancies for Eligible Students in appropriate programs in: (a) all nonpublic schools on the State Education Department's ("SED") list of approved non-public schools in New York City and in reasonable geographic proximity to New York City; (b) all non-approved non-public schools known by the City Defendants to provide services to students with disabilities and known by them to have submitted applications for approval or having indicated an interest in becoming approved; and (c) all public school districts in reasonable geographic proximity to New York City ("out-of district public schools") who are known by the CBST to be available for placement of Eligible Students. City Defendants shall also continue to review the files of Eligible Students and communicate with representatives of approved nonpublic schools, nonpublic schools that are applying for approval or have indicated an interest in becoming approved and out-of district public schools concerning acceptance of specific Eligible Students whose educational needs appear to match available vacancies in any of these schools. Upon recommendation of a non-public school placement or deferral to the CBST by a CSE, the City Defendants shall continue to review such cases in a good faith effort to identify and develop appropriate public school

programs in which any Eligible Student or group of Eligible Students may be placed, as determined by the CSE, provided, however, that no Eligible Student shall be denied or delayed a placement in an actual seat available at that time in an approved non-public school or a non-public school in the process of approval pursuant to paragraph 6 of this stipulation which meet that Eligible Student's IEP specifications while a seat in a public program is sought or developed.

3. In the event that the City Defendants have submitted the information packets of Eligible Students to approved nonpublic schools with vacancies which appear to meet the educational needs of those students and those schools have failed to act on those students or appear to have rejected any of such students without explanation or for invalid reasons within five business days of the date of submission by the City Defendants, then, in either of such events, upon notification by the City Defendants, State Defendants shall assign a representative of the SED within two business days to schedule a prompt in person or telephonic meeting with representatives of the school to discuss the reason for inaction or rejection of the particular student.

4. In the event that, in order to accept an Eligible Student, an approved school requires a change in any of the conditions of its approval, including but not limited to a

variance for class size or age, or change in staffing ratio or rate adjustment, but which does not require capital construction and/or physical facility renovation, then within two business days of notification to SED of such a request by the school, SED shall take all steps within its power to consider such request. In cases where SED is authorized by applicable statute and regulation to approve such request, SED shall approve such request. In the event a request involves capital construction and/or physical facility renovation and/or requires approval and/or authorization by a governmental agency or body other than SED, SED shall complete its review of such request within 30 days of the date that a complete written request, including all follow-up submissions, has been filed. Within that 30 day period, SED shall notify the school of the outcome of its review and, if the review is favorable, shall initiate steps to obtain approval and/or authorization by the appropriate governmental agency or body of the request. Within one week following notification to SED of such approval and/or authorization, SED shall send the school notice of such approval together with the necessary assurance documents for the school to execute, and, within one week of SED's receipt of the executed documents, SED shall approve a request which meets all applicable statutes and regulations.

5. The City and State Defendants and plaintiffs shall

continue to make all reasonable efforts to encourage unapproved non-public schools who are interested in accepting Eligible Students to submit applications for approval. A representative designated by SED shall call an applicant within two business days of receipt of an inquiry or application to schedule an in-person or telephonic meeting within five business days, consistent with the applicant's availability, to discuss compliance by the applicant with applicable statutes and regulations and, if necessary, additional steps to be taken by the applicant to comply with such statutes and regulations. State Defendants shall respond to any follow-up submissions of the applicant within five business days of receipt. State Defendants shall take all reasonable steps to expedite the application process and, in the case of applications which do not involve capital construction and/or physical facility renovation and do not require authorization by a governmental agency or body other than SED, shall approve schools which meet all applicable statutes and regulations within no more than 30 days of the date that their complete applications, including all follow-up submissions, have been filed, and shall endeavor to approve schools which meet all applicable statutes and regulations within 15 days of the date that their complete applications, including all follow-up submissions, have been filed. In the case of an application which involves capital construction and/or physical

facility renovation and/or requires approval and/or authorization by a governmental agency or body other than SED, SED shall complete its review of such application within 30 days of the date that the complete application, including all follow-up submissions, has been filed. Within that review period, SED shall notify the applicant of the outcome of SED's review and, if the review is favorable, shall initiate steps to obtain approval and/or authorization by the appropriate governmental agency or body of the application. Within one week following notification to SED of such approval and/or authorization, SED shall send the school notice of such approval together with the necessary assurance documents for the school to execute, and, within one week of SED's receipt of the executed documents, SED shall approve an application which meets all applicable statutes and regulations. A showing of regional need for a school seeking approval shall be required but shall be deemed to exist on a showing that the school seeking approval will accept one or more Eligible Students in an approved program.

6. In the event that any Eligible Student has been accepted by an unapproved private school with a program which meets such student's IEP, such private school shall be eligible for reimbursement of that student's enrollment with public funds as of April 19, 2002 or the date the student is first enrolled in that school, whichever is later, in the same manner as an

approved private school, and notwithstanding the expiration of this stipulation pursuant to paragraph 11 hereof, subject, however, to the approval of the Division of the Budget, and provided that:

A. Prior to or within 20 business days after the date of the student's enrollment, or within 20 business days of the date of this Stipulation, whichever is later, the school shall have submitted the forms and information required by the applicable statutes and regulations for approval of private schools for reimbursement with public funds;

B. The school shall have submitted any and all follow-up documentation and/or information requested by SED within five business days of the request; and

C. SED shall have completed favorably its review of the school's application for reimbursement with public funds on or before August 31, 2002 and, in such event, SED shall have initiated steps to obtain approval and/or authorization by the appropriate governmental agency or body of the associated reimbursement/tuition rate.

7. The City Defendants shall provide plaintiffs and the State Defendants with a report bi-weekly during the term of this stipulation which includes the following information:

A. The identity by name, school district and disability of all Eligible Students, as defined in Paragraph 1 of

this Stipulation;

B. The identity by name, school district and disability of all Eligible Students who have been placed since the last report and the identity by name and address of the programs in which these students have been placed;

C. The identity by name, address and contact person, if known, of each private day school program contacted by the City Defendants for placement of particular Eligible Students since the last report and the status of that effort; and

D. The name of each approved school that has informed City Defendants of a current vacancy in a program meeting the educational needs of an Eligible Student and a description of the vacancy by age group, grade and disability classification.

8. The State Defendants shall provide plaintiffs and the City Defendants with a report bi-weekly during the term of this stipulation which includes the following information:

A. The name of each school in New York City and adjoining counties that has indicated in writing a desire to expand an existing program in order to accept Eligible Students, and the status of such school's proposed expansion, including the status of any variance or child specific rate adjustment or add-on identified to SED by such school or plaintiffs as being requested by such school in connection with such proposed

expansion;

B. The name of each school in New York City and adjoining counties that has expressed to SED an interest in becoming approved in order to accept Eligible Students;

C. The name of each unapproved school in New York City and adjoining counties that has submitted an application for approval in order to accept Eligible Students and the status of such school's application until approval is finally granted or denied, including the status of any variance or child specific rate adjustment or add-on identified to SED by such school or plaintiffs as being requested by such school in connection with such approval; and

D. The name of each approved school in New York City and adjoining counties that has informed State Defendants of a current vacancy in a program meeting the educational needs of an Eligible Student and a description of the vacancy by age group, grade and disability classification.

9. The plaintiffs shall provide the State and City Defendants with a report bi-weekly during the term of this Stipulation which includes the following information:

A. The identity (by name, address, phone number and contact person) of each unapproved school which has expressed an interest to plaintiffs in becoming approved;

B. Any applicable requirement of the approval

process which any unapproved school identifies to plaintiffs that it is unable to fulfill, the reason for the respective school's inability to meet the requirement(s) and any perceived obstacle to or delay of approval encountered by the respective school;

C. Copies of all the responses provided by Approved and Non-Approved Nonpublic Schools to plaintiffs to the Questionnaires for Approved and Non-Approved Nonpublic Schools in the forms annexed hereto as Exhibits 1 and 2, or to any other form or inquiry which seeks the same or similar information, except that plaintiffs may redact statements of subjective expressions of opinion in such fashion as to indicate the location of the redaction in the text but may not redact any other information and shall maintain the unredacted originals of these documents during the pendency of this action;

D. Copies of all the responses provided by approved programs and new programs to plaintiffs to the form entitled "Requests to the State Education Department for Adjustments in Approved Programs and Approvals of New Programs" annexed hereto as Exhibit 3 or to any other form or inquiry, including but not limited to the form distributed at the meeting on April 26, 2002 entitled "Requests to the State Education Department for Adjustments in Approved Programs," which seeks the same or similar information, except that plaintiffs may redact statements of subjective expressions of opinion in such fashion

as to indicate the location of the redaction in the text but may not redact any other information and shall maintain the unredacted originals of these documents during the pendency of this action.

10. Representatives of the State and City Defendants and the plaintiff class will meet within 30 business days after execution of this Stipulation to consider, among other subjects, methods for avoiding the possibility of future waiting lists of Eligible Students, reviewing current procedures for SED approval of non-public schools, reviewing procedures by the CBST for assisting the CSE in the placement of Eligible Students, and reviewing the development by the City Defendants of public school programs to meet the educational needs of Eligible Students.

11. This stipulation shall not be "so ordered," filed or entered as an Order of the Court. This stipulation shall expire on August 31, 2002, except to the extent provided in Paragraph 6 of this Stipulation, unless all of the parties hereto have agreed in writing to an extension of that date.

12. Plaintiffs shall refrain from making a motion, or otherwise seeking judicial relief for the class, which seeks the relief and raises the issues described in the letter dated February 22, 2002 from plaintiffs to Magistrate Judge Gold annexed hereto as Exhibit 4 ("the Letter") against any defendant complying with its obligations under this Stipulation until

August 15, 2002 at the earliest. Plaintiffs may not make a motion or otherwise seek judicial relief for the class which seeks the relief and raises the issues described in the Letter before August 15, 2002 against any defendant who plaintiff alleges has not complied with its obligations under this stipulation, unless, at least five business days prior thereto, plaintiffs shall have notified the allegedly non-complying defendant in writing by hand or fax of its alleged deficiencies and of their intention to make a motion or seek judicial relief. In the event plaintiffs serve and file a motion seeking the relief and raising the issues described in the Letter, the defendants shall have 12 business days from receipt of the papers to respond to such motion and plaintiffs shall have five business days from receipt of opposition papers to reply, unless the parties agree otherwise.

13. The parties hereto consent that United States Magistrate Judge Steven M. Gold shall hear and decide the motion brought pursuant to Paragraph 12 of this Stipulation as if Magistrate Judge Gold were the District Judge to whom this case has been assigned. They further consent that any appeal from an order or judgment of Magistrate Judge Gold determining such motion shall be to the Second Circuit Court of Appeals in the same manner as an appeal from an order or judgment of a district court. The parties hereto agree to execute and file any written consent required by the District Court or District Court Clerk to

confer jurisdiction upon Magistrate Judge Gold solely to hear and decide the motion described in paragraph 12 of this Stipulation, except that this Stipulation shall not be filed with the Clerk of the Court to evidence such consent.

14. Upon the re-assignment of this case to another District Judge, the parties hereto agree to jointly request such District Judge to assign Magistrate Judge Gold to this case to act with respect to all non-dispositive matters, if any, pursuant to Local Civil Rule 72.2 of the Civil Rules of the United States District Court for the Eastern District of New York.

15. This stipulation is for settlement purposes only and is not an admission of liability or other wrongdoing on the part of any of the defendants. It shall not be construed, understood or used as evidence of any such admission. This stipulation is limited to the unique circumstances herein and shall have no precedential value with respect to any obligations of the City or State Defendants under the IDEA or any other federal or state law or regulation or the Judgment, or to any position or definition agreed to by plaintiffs in this Stipulation, or to any students other than Eligible Students as defined in Paragraph 1 herein through August 31, 2002 or any extension of that date pursuant to Paragraph 11 of this Stipulation, or to any pending or any contemplated or future litigation. Nothing herein shall preclude any individual member

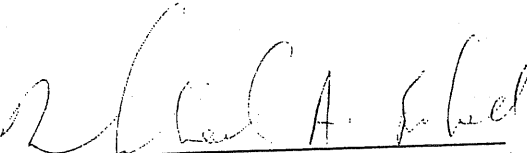
of the class from asserting any claim that individual may have under the IDEA or any other federal or state law or regulation or the Judgment prior to or after August 15, 2002 or preclude any of the defendants from asserting any defenses to any such claim.

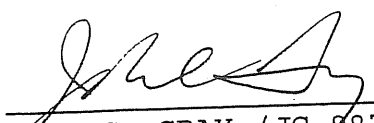
16. To the extent that this stipulation is inconsistent with the Judgment or any prior stipulations in this action with respect to the matters covered herein, this stipulation shall control.

17. This Stipulation cannot be altered, supplemented, amended, or modified in any manner except in a writing signed by all of the parties to this Stipulation or their duly authorized representatives.

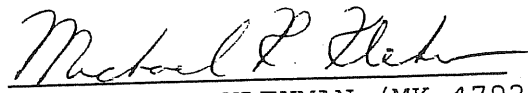
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June 17, 2002

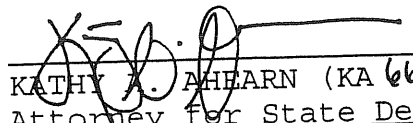
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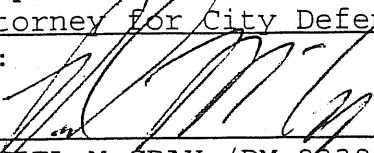
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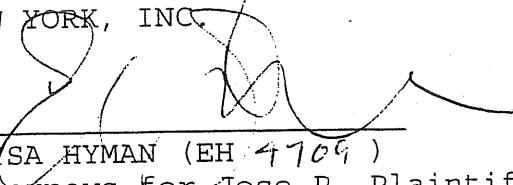
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By:



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ADVOCATES FOR CHILDREN OF
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By:



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Questionnaire for Approved Nonpublic Schools
Paragraph 58 Meeting, April 26, 2002

As attorneys representing a class of all students with disabilities in the New York City School District, we are concerned with assuring that students who require placements in nonpublic facilities because of a lack of appropriate programs in the public schools receive the services they need promptly. We are currently working with representatives of the State Education Department and the New York City Board of Education to institute reforms that we hope will reduce the time that students spend waiting for placements and increase the number of available seats in approved nonpublic schools. We ask you to take a few minutes to complete this questionnaire; your experiences and suggestions will help inform our discussions. Please submit this form by fax to Deborah Widiss, an attorney with Michael A. Rebell Associates, at 212-867-8460. If you would like to speak with us further, please call Deborah at 212-867-8455; she will speak with you about your questions or ideas or address the call to one of the other attorneys.

Name of School:
Address:
Telephone Number:
Fax Number:
e-mail address:
Contact Person:

Year Established:

Year Approved by SED for School District Contracts:

Disabilities Served:

Age Ranges:

SED-approved "capacity" (if specified on approval letter):

Actual enrollment:

Any Vacancies? If so, how many?

Has the School ever applied for permission to increase capacity?

If so, when? What result?

How long did application process take?

Has the School ever changed location?

Built a new building?

Completed an extensive renovation?

Entered into a new lease arrangement?

If approval was need for any of the above, describe approval process, including time between request for approval and final approval.

Does your tuition rate for the 2001-2002 school year cover actual costs of instruction?

Is expansion feasible within the tuition rate?

Any comments or suggestions on SED policies or procedures that impact on School's capacity to add additional seats:

Any comments or suggestions on working with the CBST (and/or CSE) on individual referrals.

Questionnaire for Non-Approved Nonpublic Schools
Paragraph 58 Meeting, April 26, 2002

As attorneys representing a class of all students with disabilities in the New York City School District, we are concerned with assuring that students who require placements in nonpublic facilities because of a lack of appropriate programs in the public schools receive the services they need promptly. We are currently working with representatives of the State Education Department and the New York City Board of Education to institute reforms that we hope will reduce the time that students spend waiting for placements and increase the number of available seats in approved nonpublic schools. We ask you to take a few minutes to complete this questionnaire; your experiences and suggestions will help inform our discussions. Please submit this form by fax to Deborah Widiss, an attorney with Michael A. Rebell Associates, at 212-867-8460. If you would like to speak with us further, please call Deborah at 212-867-8455; she will speak with you about your questions or ideas or address the call to one of the other attorneys.

Name of School:

Address:

Telephone Number:

Fax Number:

e-mail address:

Contact Person:

Year Chartered or Established:

Does the School provide special education services?

Will the School follow an IEP if available?

Will the School follow a behavior management plan if available?

Is the School barrier-free or otherwise accessible to students with mobility impairments?

Disabilities Served:

Age ranges:

Tuition Cost:

Does the School serve any children whose parents receive tuition reimbursement from the New York City Board of Education or any other board of education within New York State (e.g. Carter funding)?

If so, how many?

Does the School receive tuition payments from the New Jersey, Connecticut, or any other State Education Department)?

If so, describe:

Does the School enroll children without payment of tuition on assurances that a hearing officer will order advance tuition payments (e.g. Connor funding)?

If so, how many?

What is the School's enrollment?

What is the School's capacity, if all seats were filled?

Has the School ever contacted SED or the New York City Board of Education about approval for school district contracts?

Year:

Result:

Has the School ever submitted an application to SED for approval?

Year:

Result:

If the School has not initiated or followed-through on an application for SED approval, reasons:

Is the School's administrator certified by SED as a Supervisor or Administrator (SAS)?

Does the school have teachers who are certified in special education? Some? All?

Are the school's subject matter teachers certified in their teaching areas?

Does the school have certified or licensed providers of related services?

Is the School now interested in seeking SED approval for Board of Education Contracts?

If not, why not:

Requests to the State Education Department for Adjustments in Approved Programs and Approvals of New Programs

SED has committed to respond quickly to requests from approved programs for changes in the condition of their approval, including program expansions, class size and age variances, staffing ratio changes, and rate adjustments, that are necessary to serve students on the CBST waitlist. SED has also committed to expediting new approvals that will serve students on the waitlist. We would greatly appreciate your help in tracking SED's responses; this will permit us to take further action if necessary. Please keep us posted by contacting Deborah Widiss, Esq., at Michael A. Rebell Associates, by email at dwidiss@cfequity.org or by submitting this form by fax at 212-867-8460. If you would like to speak with us, please call Deborah at 212-867-8455, ext. 219. Deborah will speak with you or refer your call to one of the other attorneys.

Name _____ Telephone _____

School _____

Approved? _____ If so, SED approved programs (ages, disabilities, capacity) _____

Nature of request _____

Date request made _____ Date SED response _____

Date meeting with SED scheduled _____

Initial SED response (including any additional information or documents requested)

Date additional materials submitted _____ Date SED response _____

SED response _____

Additional comments _____

MICHAEL A. REBELL ASSOCIATES
ATTORNEYS AT LAW
6 EAST 43RD STREET
NEW YORK, N.Y. 10017

TELEPHONE: (212) 867-8455
FACSIMILE: (212) 867-8460

MICHAEL A. REBELL
MOLLY A. HUNTER

BY FEDERAL EXPRESS

February 22, 2002

Hon. Steven M. Gold
United States Magistrate Judge
United States Courthouse
225 Cadman Plaza East
Brooklyn, NY 11201

RECEIVED
FEB 25 2002
Office of Court

Re: *Jose P. v. Mills*, 96 Civ. 1834

Dear Judge Gold:

I am writing on behalf of all the Plaintiffs in the consolidated *Jose P.* litigations to request a pre-motion conference. It is our understanding that you will continue as the Magistrate Judge/Special Master in this case despite Judge Nickerson's recent death.

The motion Plaintiffs intend to file will seek a finding of contempt against the State and City Defendants for their failure to provide timely, appropriate special education and related services to more than 200 members of the plaintiff class who, the City defendants have determined, are in need of placements in approved non-public schools because no appropriate placements currently exist for them in the public school system. These children are among the most severely disabled in the system, and substantial delays in their receipt of services is likely to cause educational regression for many of them.

The most recent information supplied to us by City defendants indicates that approximately 230 students are currently on the nonpublic school waiting list for placement; analysis of 29 cases for which City defendants provided us detailed data indicates that, on average, these students have already been waiting approximately one year from the date of initial referral to receive the educational services to which they are legally entitled, even though the judgment in this case requires placements to be made within 60 school days. Many of the students on this waiting list are not attending school at all, receiving only 5-10 hours per week of "home instruction;" others are languishing in totally inappropriate "interim" public school settings while they await appropriate placements in non-public school.

The Defendants' failure to provide appropriate placements in a timely manner violates the central requirement of the Judgment in this case. Paragraph 6 of the Judgment provides that defendants shall take "all actions necessary to accomplish timely evaluation and placement in appropriate programs." Paragraph 31 further mandates that defendants "operate or contract for a sufficient range of appropriate special education programs in addition to resource rooms programs for all children in New York City who have been found in need of special education programs." See also, e.g., ¶32 (requiring State defendants to stimulate and coordinate efforts to develop residential programs in New York City); ¶s 57, 58 (specifying that approved nonpublic schools are part of the continuum of programs and services to be utilized by City Defendants to meet their obligations under the Judgment and applicable federal and state law.¹)

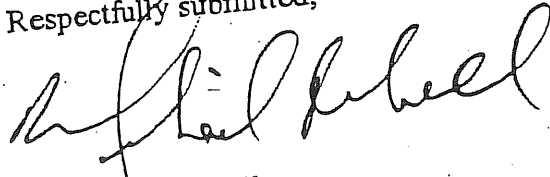
On information and belief, a major cause of the current waiting lists is an insufficient number of appropriate approved nonpublic schools in or near New York City. This insufficiency appears to be attributable in large part to arbitrary limitations imposed by State Defendant on the expansion of currently-approved nonpublic schools and the approval of new nonpublic schools. These limitations, on their face, violate the above-cited provisions of the Judgment and applicable federal law. In addition, the limitations render meaningless the specific mechanism for avoiding waiting lists for these children which was established by paragraph 58 of the Judgment. That provision calls for City Defendants to meet on a regular basis with representatives of the non-public schools to develop plans to "assure the provision of coordinated services to meet best the needs of students and to aid in reducing existing waiting lists..." Such meetings have not been held in recent years in light of the State's non-approval policies. In addition, on information and belief, the actual waiting lists may be larger than the numbers currently being reported by City Defendants, and there appear to be substantial delays in processing and reporting by the City Defendants.

Plaintiffs seek both immediate and long-term relief. In the short run, Plaintiffs ask that the specific students currently on the waiting lists for nonpublic schools be identified within 10 days and appropriately placed in currently-approved nonpublic schools, or in nonpublic schools which provide appropriate placements and can be approved, on an emergency interim basis, at least for the admission of particular children, within 30 days of the time they are identified. In the long run, Plaintiffs seek the removal of arbitrary limitations on non-public school approvals imposed by the State Defendant, improved processing and reporting procedures by City Defendants, and a planning process that is designed to commit both Defendants to actions that will ensure that all students who need placements in nonpublic schools receive such placements within the timelines set forth in the Judgment and applicable state law.

¹Applicable federal law also specifically provides that where appropriate special education and related services are not currently available in a public school setting, school districts are authorized and, indeed, required to contract with private schools that are able to provide these services. 20 USC section 1412 (a) (10) (b); 34 CFR sections 300.400-402.

Counsel for plaintiffs respectfully request a conference with you to set a briefing schedule for their proposed motion or to otherwise remedy the failure that gives rise to that motion. I will call your office next week to try to arrange a time for the conference.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael A. Rebell". The signature is fluid and cursive, with the first name "Michael" and last name "Rebell" clearly legible.

Michael A. Rebell

cc: Daniel McCray, Counsel for City Defendants
Mary McKenna Rodriguez, Special Assistant to the Counsel to the Chancellor
Kate Surgalla, Counsel for the State Defendant (By Federal Express)
Chip Gray
Roger Maldonado
Jill Chaifetz
Marion Katzive