

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

----- X
RACQUEL BROWN,

Plaintiff,

-against-

DEPARTMENT OF EDUCATION OF THE CITY
OF NEW YORK, et. al.,

Defendant. X

MEMORANDUM AND ORDER

11-cv-2952 (ENV) (JO)

----- X
RACQUEL BROWN,

Plaintiff,

-against-

DEPARTMENT OF EDUCATION OF THE CITY
OF NEW YORK, et. al.,

Defendant. X

12-cv-6299 (ENV) (JO)

VITALIANO, D.J.

Plaintiff Racquel Brown has filed two actions against the City School District of the City of New York (“BOE”). The factual allegations are identical. In the first action (“Brown I”), filed on June 21, 2011, plaintiff, a former teacher employed by BOE, alleges that BOE violated her First Amendment rights by subjecting her to a series of retaliatory acts after she complained about special education students at her school not receiving proper instruction. Additionally, plaintiff claims that BOE violated her due process rights by discontinuing her probationary service and

terminating her employment without giving her the same level of review that is given to tenured teachers under New York state law. Plaintiff filed the second action ("Brown II") on December 21, 2012, reiterating all of the claims made in Brown I but this time also claiming violations under the Rehabilitation Act of 1973, 29 U.S.C. §504, by alleging BOE discriminated and retaliated against her because she advocated for special needs students.

Given the congruency of facts and parties, the two actions are ordered consolidated on the Brown I docket. The Brown II docket is ordered closed, and defendants' motion to stay all proceedings is denied as moot. The reply briefing on BOE's motion, currently due on February 12, 2013 shall not be submitted at this time. Instead, defendants will submit supplemental briefing on the Rehabilitation Act claim only on or before March 7, 2013. Plaintiff will submit supplemental opposition to BOE's supplemental briefing on the Rehabilitation Act claim only on or before March 21, 2013. Defendants will then reply to plaintiff's briefing on all claims on or before April 4, 2013, at which time the entire electronic bundle will be filed and the matter submitted for decision.

SO ORDERED.

Dated: Brooklyn, New York
February 7, 2013

(
s/ENV)

ERIC N. VITALIANO
United States District Judge