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February 12, 2021

BY ECF

Hon. Ronnie Abrams
Thurgood Marshall
United States Courthouse
40 Foley Square, Room 1506
New York, NY 10007

Re: *F.R. et al., v. New York City Department of Education,*
20-cv-3169 (RA)

Dear Judge Abrams:

I am an Assistant Corporation Counsel in the Office of the Corporation Counsel assigned to represent the New York City Department of Education (hereinafter "DOE"), in the above-referenced matter. I write to in accordance with Your Honor's January 14, 2021 Order (Dkt. No. 21) and Your Honor's Individual Rules of Practice § 1(D) to provide the Court a status of settlement, and to respectfully request a 30-day adjournment of the February 19, 2021 Settlement Conference in light of Plaintiff's provision on **January 29, 2021** of billing records for work performed at the Administrative Level.

Plaintiffs commenced this enforcement action on April 21, 2020 under the Individuals with Disabilities Education Improvement Act ("IDEA"), 20 U.S.C. § 1400, et seq., Section 504 of the Rehabilitation Act, 29 U.S.C. § 701 ("Section 504"), as well as New York State law based upon an interim Pendency Order seeking (i) pendency payments (tuition reimbursement and related costs) for 2019-2020 school year and (ii) attorney's fees in connection with underlying action. See Complaint ¶¶ 69 – 74. The DOE resolved the substantive claims regarding pendency payments in connection with the 2019-2020 school year. See Parties' Joint Letter dated October 30, 2020 (Dkt. No. 18).

This Office's position was that Plaintiffs' were entitled to attorney's fees associated with work performed in preparing and pursuing the federal action. See DOE's Letter dated January 6, 2021 re: Position on Settlement of Attorney's Fees (Dkt. No. 19). This position was reiterated in the DOE's letter dated January 14, 2021 requesting to adjourn the previous conference.

During our internal settlement assessment process I was advised that (i) there was a Final Findings of Fact and Order (“FOFD”) dated October 31, 2020 that concluded the underlying administrative proceeding, (ii) the statutory time period for either party to appeal the order (45 days upon receipt) had lapsed, and (iii) Plaintiffs had served a fee demand upon the DOE by email on **January 29, 2021** seeking administrative fees that begin on from December 12, 2018 through January 27, 2021. At the administrative level, the DOE is usually afforded a window of opportunity to review a fee demand at the conclusion of an administrative proceeding prior to making a reasonable settlement offer.

After consultation with the DOE and in an effort to conserve judicial resources, I have received client approval to conduct an expedited review of the administrative level fees submitted January 29, 2021 (ahead of the normal review schedule) and attempt to make a reasonable settlement offer to resolve both the federal action and all administrative level fees associated with Impartial Hearing Case # 183959 from 2018 to present.

In order to accommodate this process, this Office requests an additional 30 days to conduct an expedited review, and make a reasonable settlement offer in advance of a settlement conference before Your Honor.

Plaintiffs’ position is that additional legal fees have accrued and will continue to accrue until this federal matter is resolved, and Plaintiffs will continue to provide Defendant’s counsel with updated billing records. Plaintiffs further maintain that what Defendant may consider “normal review” is prejudicial to Plaintiffs’ interests.

The DOE respectfully requests Your Honor adjourn the settlement conference currently scheduled February 19, 2021 until the week of March 22, 2021 or a date thereafter convenient for the Court. Plaintiffs’ counsel does not consent to the requested extension of time to adjourn the settlement conference. Plaintiffs object to delaying the resolution of the case. This is Defendant’s third request to adjourn the settlement conference. The proposed extension does not affect any other deadlines currently in this case.

Thank you for your consideration of this request.

Respectfully submitted,

/s/

Thais R. Ridgeway
Assistant Corporation Counsel

CC: **BY ECF**
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Application granted. The settlement conference is hereby adjourned until March 12, 2021 at 4:00 pm. No further extensions will be granted absent good cause.

SO ORDERED.



Hon. Ronnie Abrams
February 16, 2021