



**THE CITY OF NEW YORK
LAW DEPARTMENT**

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April 16, 2024

Hon. Diane Gujarati
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Alexander et al. v. Sutton et al.*
24-cv-02224 (DC)(JRC)

Dear Judge Gujarati:

I am an Assistant Corporation Counsel in the office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York and have been assigned to represent the Defendants New York City Department of Education (“DOE”) and DOE Chancellor David C. Banks (collectively “DOE Defendants”) in the above-captioned matter. I am writing to respectfully request a 32-day extension of time for all defendants to respond to the Complaint from April 18, 2024 to May 20, 2024. This is DOE Defendants’ first request for an extension of time to respond to the Complaint.

In their Complaint, Plaintiffs assert violations of the First and Fourteenth Amendments pursuant to 42 U.S.C. § 1983, primarily based on the conduct of Defendants Community Education Council 14 (“CEC 14”), Tajh Sutton and Marissa Manzanares, respectively the President and Vice President of CEC 14 (collectively, the “CEC Defendants”). Specifically, Plaintiffs allege that Defendants have engaged in conduct that infringed on Plaintiffs’ right to free expression in relation to their expressions of disagreement with CEC 14 concerning the Israel-Hamas war. Plaintiffs’ Complaint is 45-pages long, consists of 125 numbered paragraphs with 9 exhibits, and seeks, *inter alia*, 8 forms of injunctive relief and 8 forms of declaratory relief. The requested extension will provide the time necessary for this Office to investigate Plaintiffs’ factual allegations and research the applicable law, so that we may prepare an appropriate response.

The additional time also will allow this Office time to make representation decisions concerning Defendants Mickens, Sutton, Manzanares and CEC 14. The Corporation Counsel's representation of these Defendants is governed by the N.Y. Education Law and the General Municipal Law, and must account for any potential conflicts of interest between and among the various Defendants. Accordingly, the determinations of whether the Corporation Counsel can and should represent these Defendants requires further investigation and coordination, and possibly interviews of these Defendants should they seek representation from this Office. Currently, however, these individuals have not yet requested representation and, accordingly, their representation remains uncertain.

Notably, neither CEC 14 nor Defendant Sutton was properly served.¹ Although Plaintiffs purported to serve these Defendants at this Office, such service was ineffectual as this Office is not authorized to accept service on their behalf and cannot do so unless we represent them (which, as noted above, is not yet the case). Thus, additional time is requested so that service and representation issues can be addressed and resolved.

Plaintiffs do not consent to the requested extension. Rather, Plaintiffs conditioned their consent on this Office's agreement to accept service for *all* Defendants. This Office cannot agree to this condition because, as noted above, this Office does not yet represent all the Defendants and does not have the legal authority to accept service on their behalf. Plaintiffs argue that N.Y. Educ. Law § 2590-e(9) authorizes this Office to represent the CEC Defendants and, therefore, to accept service on their behalf. This is mistaken. While that statute authorizes this Office to represent the CEC and its members if they so choose, it does not mandate that representation (which would perhaps foist this Office's representation on these Defendants), particularly if there are grounds for denying such representation. Nor does it authorize this Office to accept service on their behalf. Simply put, we cannot accept service unless we represent the particular Defendant, and we do not yet represent these other Defendants.

Based on the foregoing, DOE Defendants respectfully request an extension of time for all Defendants to respond to the Complaint to May 20, 2024.

Thank you for your consideration in this matter.

Respectfully Submitted,

/s/ Jordan Doll
Jordan Doll
Assistant Corporation Counsel

cc: All counsel of record
(via ECF)

¹ Defendants' counsel mistakenly communicated to Plaintiffs' counsel over email that she believed service on CEC 14, Sutton, and Manzanares was proper. Upon further review, Defendants' counsel found this conclusion was wrong. Defendants' counsel apologizes for any confusion.