

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DEBORAH ALEXANDER, et al.,	: : No.: 1:24-cv-2224-DG-JRC
Plaintiffs,	: :
v.	: :
TAJH SUTTON, et al.,	: :
Defendants.	: :-----X

JOINT STATUS REPORT

Pursuant to the Court’s June 26, 2024 order, the parties jointly submit the following status report.

- (1) Plaintiffs explained at the status conference that their demands are contained in their complaint and motion for a preliminary injunction, and that they will consider reasonable offers. Chancellor David C. Banks, Nina S. Mickens, and New York City Department of Education (“DOE Defendants”) assert that on July 25, 2024, they submitted a bona fide confidential settlement offer to Plaintiffs for consideration. Plaintiffs do not consider this to be a true good-faith offer and reject it as any basis for negotiation. Plaintiffs reiterate that they will not negotiate against themselves, and still expect true offers from Defendants to initiate settlement discussions. DOE Defendants assert that the offer was submitted as a reasonable attempt to resolve this matter and remain committed to good faith negotiations. Manzanares’s and Sutton’s counsel has represented that his clients are formulating a settlement proposal that will be circulated in advance of the conference.

- (2) Sutton's and Manzanares' counsel was not copied on DOE Defendants' settlement proposal to Plaintiffs. He objects to any negotiations which do not include Manzanares's and Sutton's counsel, and requests a copy of the proposal. Manzanares' and Sutton's counsel state that his settlement will be copied to all parties, which they believe is the better practice. DOE Defendants' counsel states that she submitted the confidential settlement offer only to Plaintiffs' counsel because the offer addressed only the relief Plaintiffs seek from DOE Defendants and does not relate to the claims against Sutton, Manzanares, or CEC 14, and to preserve the confidentiality of settlement negotiations. Plaintiffs have no position on this dispute. They state that they have no objection to sharing the "offer" with Sutton and Manzanares's counsel, but will not do so absent DOE Defendants' consent.
- (3) The parties have not yet discussed narrowing the issues before the Court.
- (4) The parties have not made discovery requests.
- (5) There remains no agreement regarding the representation of CEC 14 and Defendants Sutton and Manzanares in their official capacities. However, the Assistant Corporation Counsel reached out by letter on July 22, 2024 to the members of the CEC 14 asking to meet, and discuss representation and settlement authority. The Assistant Corporation Counsel followed up on July 25, 2024. No response has yet been received. Manzanares' and Sutton's counsel states that since a motion to disqualify Corporation Counsel is under consideration, CEC 14 is discussing whether to agree to conversations with Corporation Counsel prior to a decision on that motion. Manzanares's and Sutton's counsel also takes the position a need is not evident to hold these conversations before the settlement conference.

Plaintiffs continue to object to any delays in the resolution of the preliminary injunction motion owing to Defendants' internal representation dispute, in which they have no input. Plaintiffs' position is that they are suffering irreparable harm now and that Defendants cannot delay or defeat Plaintiffs' motion by disputing amongst themselves.

- (6) Plaintiff Maron submitted an administrative appeal of and petition to stay her removal from office to the Panel for Education Policy (PEP). Plaintiffs state that upon that submission, Plaintiffs' counsel specifically asked DOE Defendants' counsel if anything more needed to be done to perfect the appeal, and DOE counsel responded that the appeal was received. DOE Defendants' counsel and Plaintiffs' counsel disagree about the substantive and legal effect of this email exchange. Plaintiffs assert that NYC Public Schools General Counsel Liz Vladeck responded to the appeal on behalf of Chancellor Banks and contended that the appeal is procedurally defective, and that Plaintiffs find this position unconstructive. Defendants will provide a fuller statement of their position on this issue in their submission to the Court responding to Plaintiffs' July 23, 2024 filing (see also paragraph 9 below).
- (7) As of July 19, briefing in Maron's appeal is complete, but the PEP panel has not issued a decision. On July 11, however, the panel denied Maron's request to expedite the appeal and her application for a stay. A decision from the PEP is expected by August 19, 2024.
- (8) Counsel for defendants Sutton and Manzanares states that Sutton also filed an administrative appeal of her dismissal from CEC 14 and received correspondence that it was procedurally defective and then denying a stay. Manzanares and Sutton request that any preliminary relief extended to Maron regarding CEC 2 be identically extended to Sutton regarding CEC 14.

DOE Defendants' counsel object to this request as not properly before this Court, especially given that neither Sutton's removal nor the basis for it is at issue in this litigation.

(9) On July 22, 2024, Plaintiffs filed a "Notice re: Preliminary Injunction" concerning Maron's PEP appeal, renewing their request for an expeditious decision on the preliminary injunction, or in the alternative, seeking an injunction to enjoin DOE from filling Maron's vacant CEC 2 seat. *See* ECF No. 55. On July 23, 2024, DOE Defendants filed a letter requesting additional time to respond to Plaintiffs' July 22, 2024 filing. *See* ECF No. 56. On July 24, 2024, Plaintiffs filed a reply letter. *See* ECF No. 57. Manzanares and Sutton request that any preliminary relief extended to Maron regarding CEC 2 be identically extended to Sutton regarding CEC 14. As noted above, DOE defendants object to this request as not properly before this Court, especially given that neither Sutton's removal nor the basis for it is at issue in this litigation.

Dated: July 26, 2024

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