

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

COMMONWEALTH OF PENNSYLVANIA, *et al.*,

Plaintiffs,

v.

PHILIP H. ROSENFELT, *in his official capacity as
Acting Secretary of Education, et al.*,

Defendants,

and

FOUNDATION FOR INDIVIDUAL RIGHTS
IN EDUCATION, *et al.*,

Intervenor-Defendants.

Civil Action No. 20-cv-01468-CJN

UNOPPOSED MOTION TO STAY BRIEFING SCHEDULE

Plaintiffs respectfully request that the Court stay the Amended Scheduling Order (ECF No. 107) while Plaintiffs' and Defendants' joint motion to hold this case in abeyance is pending. Defendants and Intervenor-Defendants do not oppose this motion.

1. This case involves an Administrative Procedure Act challenge to a rule issued by the U.S. Department of Education, 85 Fed. Reg. 30,026 (May 19, 2020).

2. The parties are currently in the midst of briefing cross-motions for summary judgment. Pursuant to the Court's Amended Scheduling Order, Plaintiffs' combined reply brief in support of their motion for summary judgment and response in opposition to Defendants' and Intervenor-Defendants' cross-motions for summary judgment is due February 16, 2021; and Defendants' and Intervenor-Defendants' reply briefs in support of their cross-motions for summary judgment are due March 16, 2021.

3. Plaintiffs and Defendants have jointly moved to place the case in a 60-day abeyance to allow incoming Department leadership to review the underlying rule at issue in this case (ECF

No. 143). Intervenor-Defendants have not taken a position on the motion and reserve the right to respond after the motion has been filed.

4. Good cause exists to stay the summary judgment briefing schedule. Under the default rules of this Court, Intervenor-Defendants must respond to the joint motion to hold the case in abeyance by February 17, 2021—one day after Plaintiffs' combined reply brief is due. Staying the upcoming deadlines would preserve limited resources in the event the Court grants the motion.

For the foregoing reasons, Plaintiffs respectfully request that the Court stay the summary judgment briefing schedule while the joint motion to place the case in abeyance is pending.

Date: February 3, 2021

Respectfully submitted,

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