

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

NATIONAL EDUCATION
ASSOCIATION, *et al.*,

Plaintiffs,

v.

DEPARTMENT OF EDUCATION, *et
al.*,

Defendants.

Case No. 1:25-cv-00091-LM

**JOINT MOTION TO DISMISS THE COMPLAINT WITHOUT PREJUDICE
SUBJECT TO THE TERMS OF THE PARTIES' STIPULATION**

Pursuant to Federal Rule of Civil Procedure 41(a)(2), Defendants U.S. Department of Education (“ED”); Linda McMahon, in her official capacity as Secretary of Education; and Craig Trainor, in his official capacity as former acting Assistant Secretary of the Office for Civil Rights (“OCR”), (“Defendants”); and Plaintiffs National Education Association; National Education Association–New Hampshire; Center for Black Educator Development; Dover School District; Hanover and Dresden School District; Oyster River Cooperative School District; and Somersworth School District (“Plaintiffs”) (collectively, the “Parties”) move the Court to dismiss Plaintiffs’ Complaint without prejudice subject to the terms of the below stipulation.

WHEREAS, Plaintiffs filed the operative Amended Complaint in this action on May 12, 2025 (ECF No. 79);

WHEREAS, Plaintiffs’ Amended Complaint alleges, *inter alia*, that Defendants’ Agency Actions, including (1) the Dear Colleague Letter issued on February 14, 2025; (2) the FAQ document issued on February 28, 2025, and amended on April 9, 2025; (3) the EndDEI Portal

launched on February 27, 2025; and (4) a certification demand issued on April 3, 2025, are contrary to law, arbitrary and capricious, in excess of statutory authority, without procedure required by law, and unconstitutional;

WHEREAS, on August 14, 2025, the U.S. District Court for the District of Maryland vacated the challenged Agency Actions in *American Federation of Teachers, et al. v. United States Department of Education, et al.*, No. 1:25-cv-00628, which decision has now become final with the January 21, 2026 filing of the joint stipulation to dismiss the appeal to the Fourth Circuit in Case No. 25-2228, and the court's subsequent dismissal of the appeal, Order, *American Federation of Teachers, et al. v. United States Department of Education, et al.*, No. 25-2228 (4th Cir. Jan. 22, 2026);

THEREFORE, the Parties do HEREBY STIPULATE AND AGREE as follows:

1. The challenged Agency Actions have been vacated and set aside by the final judgment entered in *American Federation of Teachers, et al. v. United States Department of Education, et al.*, No. 1:25-cv-00628 (“*AFT*”), and the vacatur and terms of the judgment in *AFT* apply to Plaintiffs;
2. The challenged Agency Actions will not be relied on in any way by Defendants including by way of seeking to enforce its substance through ED or DOJ civil rights enforcement procedures;
3. The certification demand issued on April 3, 2025 will not be reinstated in substance even if under a different name;
4. The challenged Agency Actions creates no obligation, responsibility, or condition on Plaintiffs in any manner;
5. ED retains the authority to enforce the statutory and regulatory provisions of Title VI

to ensure compliance regarding any policy or practice where alleged discrimination on the basis of race, color or national origin may be occurring.

6. As such, the Complaint shall be dismissed without prejudice;
7. All parties will bear their own fees and cost.

Accordingly, the Parties respectfully request that the Court dismiss the Complaint without prejudice subject to the terms of the above stipulation.

Dated: February 3, 2026

Respectfully submitted,

STANLEY WOODWARD JR.
Associate Attorney General

ABHISHEK KAMBLI
Deputy Associate Attorney General

BRETT A. SHUMATE
Assistant Attorney General
Civil Division

DIANE KELLEHER
Director
Civil Division, Federal Programs Branch

/s/ Eitan R. Sirkovich
EITAN R. SIRKOVICH
Trial Attorney, U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, N.W.
Washington, D.C. 20005
Telephone: (202) 353-5525
E-mail: eitan.r.sirkovich@usdoj.gov

Counsel for Defendants

Sarah Hinger*

/s/ Gilles R. Bissonnette

Alexis Alvarez*
Leah Watson*
Ethan Herenstein*
Victoria Ochoa*
Sophia Lin Lakin*
American Civil Liberties Union
Foundation
125 Broad Street, 18th Floor
New York, NY 10004
(212) 519-7882
shinger@aclu.org

Alice O'Brien*[†]
Jason Walta*[†]
Phil Hostak*[†]
NEA Office of General Counsel
National Education Association
1201 16th Street NW
Washington, DC 20036
(202) 822-7035
aobrien@nea.org

Gilles R. Bissonnette (N.H. Bar No.
265393)
Henry R. Klementowicz (N.H. Bar No.
21177)
SangYeob Kim (N.H. Bar No. 266657)
American Civil Liberties Union of New
Hampshire
18 Low Avenue
Concord, NH 03301
(603) 224-5591
gilles@aclu-nh.org

Rachel E. Davidson*
American Civil Liberties Union
Foundation
of Massachusetts, Inc.
One Center Plaza, Suite 801
Boston, MA 02018
(617) 482-3170
rdavidson@aclum.org

Callan E. Sullivan[†] (N.H. Bar No.
20799)
Lauren Snow Chadwick[†] (N.H. Bar No.
20288)
National Education Association-New
Hampshire
9 South Spring Street
Concord, NH 03301
(603) 224-7751
csullivan@nhnea.org

**admitted pro hac vice*
*[†]appearing only on behalf of NEA,
NEA-NH, and Center for Black
Educator Development*

Counsel for Plaintiffs