

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

STATE OF NEW YORK and
THE BOARD OF EDUCATION FOR THE
CITY SCHOOL DISTRICT OF THE CITY
OF NEW YORK,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
EDUCATION and ELISABETH DEVOS,
*in her official capacity as the Secretary of
Education,*

Defendants.

No. 1:20-cv-04260-JGK

STIPULATION OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE

Under Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, Plaintiffs the State of New York and the Board of Education for the City School District of the City of New York (“Plaintiffs”) and Defendants United States Department of Education and Elisabeth DeVos, in her official capacity as the Secretary of Education (“Defendants”) (collectively, the “Parties”), stipulate to the dismissal of the above-captioned action without prejudice. The Parties further stipulate that, in the event that either Plaintiff seeks to resume litigation challenging the U.S. Department of Education’s Final Rule, *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*, 85 Fed. Reg. 30,026 (May 19, 2020) (the “Final Rule”) in the future, that Plaintiff agrees to seek to reopen this action or, should such option be unavailable, to file such challenge in the Southern District of New York and follow the related case requirement under Local Civil Rule 1.6. The Parties agree that nothing in this stipulation will prevent Plaintiffs or their respective educational institutions from asserting

the invalidity of the Final Rule, or any provision thereof, in a case in which either of the Plaintiffs or any of their educational institutions are named as defendants.

DATED: November 3, 2020

Respectfully submitted,

LETITIA JAMES
Attorney General of the State of New York

JEFFREY BOSSERT CLARK
Acting Assistant Attorney General

By: /s/ Joseph Wardenski
Joseph Wardenski, *Senior Trial Counsel*
Matthew Colangelo

JOHN V. COGHLAN
Deputy Assistant Attorney General

Chief Counsel for Federal Initiatives
Morenike Fajana, *Special Counsel*
Lindsay McKenzie, *Assistant Attorney*
General

CARLOTTA WELLS
Assistant Branch Director

Office of the New York State Attorney
General

By: /s/ Benjamin T. Takemoto
BENJAMIN T. TAKEMOTO
(DC Bar # 1045253)
Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch
Ben Franklin Station, P.O. Box No. 883
Washington, DC 20044
Phone: (202) 532-4252
Fax: (202) 616-8460
E-mail: benjamin.takemoto@usdoj.gov

28 Liberty Street
New York, NY 10005
Phone: (212) 416-8441
Fax: (212) 416-6007
Joseph.Wardenski@ag.ny.gov

Attorneys for Plaintiff the State of New York

JAMES E. JOHNSON
Corporation Counsel of the City of New York

Attorneys for Defendants

By: /s/ Sabita Krishnan
Sabita Krishnan
Joseph Pepe
Tonya Jenerette
Assistant Corporation Counsel
100 Church Street
New York, New York 10007
(212) 356-2273
skrishna@law.nyc.gov

Attorneys for Plaintiff the Board of Education
of the City School District of the City of New
York