

**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

**JOINT MOTION TO HOLD CASE IN ABEYANCE**

Plaintiffs and Defendants herein jointly request that the Court stay all pending briefing deadlines and hold this case in abeyance for sixty (60) days, up to and including Monday, April 5, 2021. Intervenor Defendants will take a position on this motion after it has been filed, and reserve the right to file a response.

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 (ECF No. 107), Plaintiffs' combined reply brief in support of their motion for summary judgment and response in opposition to Defendants' and Intervenors' cross-motions for summary judgment is due February 16, 2021; and Defendants' and Intervenors' reply briefs in support of their cross-motions for summary judgment are due March 16, 2021.

3. The abeyance request is made to allow incoming Department leadership to review the underlying rule at issue in this case. *See, e.g.,* Per Curiam Order, *Save Jobs USA v. DHS*, No. 16-5287 (D.C. Cir. Feb. 10, 2017) (granting 60-day abeyance); Consent Motion to Hold Proceedings in Abeyance for 60 Days, *Save Jobs USA v. DHS*, No. 16-5287 (D.C. Cir. Feb. 1, 2017) (requesting abeyance “to allow incoming leadership personnel adequate time to consider the issues”).

4. Plaintiffs and Defendants agree to file a joint status report and propose a schedule for future proceedings on or before April 5, 2021.

Date: February 3, 2021

Respectfully submitted,

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**CERTIFICATE OF CONFERENCE**

In accordance with Local Civil Rule 7(m), counsel for Plaintiffs and Defendants conferred with counsel for Intervenor Defendants in a good-faith effort to determine whether Intervenor Defendants opposed the relief sought and, if so, to narrow the areas of disagreement. Counsel for Intervenor Defendants informed Plaintiffs and Defendants that Intervenor Defendants will take a position on this motion after it has been filed, and reserve the right to file a response.

*/s/ Daniel Riess*