



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, Corporation Counsel

Press Release

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For Immediate Release

**COURT DISMISSES LAWSUIT BROUGHT AGAINST
DEPARTMENT OF EDUCATION UNDER THE “NO CHILD LEFT BEHIND” ACT**

***COURT FINDS THAT “CONGRESS DID NOT INTEND TO CREATE INDIVIDUALLY ENFORCEABLE RIGHTS”
RELATING TO PROVISIONS OF THE ACT***

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New York, June 26, 2003 – Manhattan Federal Court Judge John G. Koeltl has dismissed a lawsuit, Association of Community Organizations for Reform Now v. New York City Department of Education (DOE), that challenged the Department’s implementation of the school transfer and Supplemental Educational Services (SES) components of the federal “No Child Left Behind” Act (NCLBA).

In granting the City’s motion to dismiss, the Court found that “it is clear that Congress did not intend to create individually enforceable rights with respect to the notice, transfer or SES provisions contained in the NCLBA.” The Court noted that the school transfer and SES options may not be available to all individual students and determined that “Congress was concerned with improving the educational conditions of children as a whole, and specifically, the condition of the subset of children from lower income families.” The suit had alleged the City had violated the Act’s requirements.

Corporation Counsel Michael A. Cardozo said, “We are pleased the Court found that in enacting this law, which is intended to improve public schools, Congress did not intend for there to be private lawsuits about school transfers and supplemental educational services.” The case was litigated by Assistant Corporation Counsels Lisa Grumet and Theresa Crotty of the General Litigation Division of the New York City Law Department.

“The Department of Education has been a leader in implementing the No Child Left Behind law,” Cardozo added. “The City remains committed to complying with its requirements and achieving its goals.”

The “No Child Left Behind Act” is a comprehensive education reform statute that requires states, as a condition for receiving federal funds, to set challenging standards and to test student performance. States must set goals to increase the percentage of students who are proficient each year to ensure that by the 2013-2014 school year (in other words, within 12 years of when the legislation was enacted), all students meet state proficiency standards. Schools that do not meet the state’s standards for two years in a row are identified for “school improvement,” and school districts are required to take steps to improve student performance at the school.

School districts are also required to provide students at these schools with the option of transferring to a school that has not been identified for “school improvement,” if there is another school in the district and a transfer is not prohibited by State law. If a school fails to meet State standards for a third year, the school district must provide children from low income families with the option of supplemental educational services, except that districts are not required to provide this option to all students if it is not fully funded or if the district is granted a waiver. The requirements of the No Child Left Behind Act may be enforced

by the federal and state governments.

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top three largest law offices in New York City and the top three largest public law offices in the country. Tracing its roots back to the 1600's, the Department's 650-plus lawyers handle more than 100,000 cases and transactions each year in 17 separate legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department's attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. Its web site can be accessed through the City government home page at www.nyc.gov or via direct link at www.nyc.gov/html/law/home.html.

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