

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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E.G., individually and as parent and natural
guardian of A.I. and L.I., minor children;
M.M., individually and as parent and natural
guardian of E.H., L.H., E.P., and E.P.,
minor children; O.M., individually and as
parent and natural guardian of A.M., a minor
child; and COALITION FOR THE
HOMELESS, on behalf of themselves and
all others similarly situated,

Plaintiffs,

-against-

THE CITY OF NEW YORK; NEW YORK
CITY DEPARTMENT OF EDUCATION;
MEISHA PORTER, as Chancellor of the New
York City Department of Education; NEW
YORK CITY DEPARTMENT OF SOCIAL
SERVICES; STEVEN BANKS, as
Commissioner of the New York City
Department of Social Services; NEW YORK
CITY DEPARTMENT OF HOMELESS
SERVICES; JOSLYN CARTER, as
Administrator of the New York City
Department of Homeless Services; NEW
YORK CITY HUMAN RESOURCES
ADMINISTRATION; GARY JENKINS as
Administrator of the New York City Human
Resources Administration; NEW YORK CITY
DEPARTMENT OF INFORMATION
TECHNOLOGY AND
TELECOMMUNICATIONS; and JESSICA
TISCH, as Commissioner of the New York
City Department of Information Technology
and Telecommunications,

Defendants.

No. 20-cv-9879 (AJN)

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~~PROPOSED~~ **STIPULATION AND ORDER OF SETTLEMENT**

WHEREAS, Plaintiffs commenced the instant lawsuit as a class action complaint on November 24, 2020, alleging that Defendants violated federal and state law by denying homeless students living in shelters their right to a sound basic education through their failure to provide reliable internet service at shelters throughout the City;

WHEREAS, Plaintiffs filed an Amended Class Action Complaint on December 14, 2020.

WHEREAS, Defendants deny each and every allegation contained in the Amended Class Action Complaint;

WHEREAS, by order dated December 30, 2020, the Court denied Defendants' request to deny the preliminary injunction motion based on the existing record and granted Plaintiffs' request for expedited discovery on all disputed factual issues in advance of an evidentiary hearing, but otherwise did not grant any interim relief;

WHEREAS, no finding of liability has been made;

WHEREAS, the parties desire to settle this action on terms and conditions just and fair to all parties;

WHEREAS, the parties have conducted extensive, arm's-length negotiations to resolve the issues in this action and have resolved those issues as specified in this Stipulation and Order of Settlement ("Stipulation");

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

I. DEFINITIONS

1. Altice: Altice USA, an American cable television provider with headquarters in New York City. References to Altice are inclusive of any representatives, agents, employees, directors, managers, contractors, or subcontractors Altice might employ.

2. Charter: Charter Communications or Charter Spectrum, an American telecommunications and mass media company headquartered in Stamford, Connecticut. References to Charter are inclusive of any representatives, agents, employees, directors, managers, contractors, or subcontractors Charter might employ.

3. Class Member: Any individual who is a member of the Class as defined in paragraph 18.

4. Dashboard Spreadsheet: The Excel spreadsheet tracking the progress of Defendants' Shelter WiFi installation process that is primarily maintained and updated by the New York City Department of Information Technology and Telecommunications ("DoITT"), and that contains the following three tabs: (1) a tab with data reflecting a "dashboard" summary of the installation progress; (2) a tab specific to Charter and its shelter-level installation progress; and (3) a tab specific to Altice and its shelter-level installation progress.

5. Defendant or Defendants: The following Defendants that Plaintiffs named in the Amended Complaint: the City of New York; New York City Department of Education ("DOE"); Meisha Porter, as Chancellor of DOE; New York City Department of Social Services ("DSS"); Steven Banks, as Commissioner of DSS; New York City Department of Homeless Services ("DHS"); Joslyn Carter, as Administrator of DHS; New York City Human Resources Administration ("HRA"); Gary Jenkins as Administrator of HRA; DoITT; and Jessica Tisch, as

Commissioner of DoITT; or any representatives, agents, or employees acting on Defendants' behalf.

6. DHS Shelter for Families with Children: Any of the buildings or commercial hotels operated or supervised by Defendant DHS that provide shelter in New York City for families with school-aged minor children experiencing homelessness.

7. Effective Date: The date on which this Stipulation is entered as an order of the Court.

8. HRA Domestic Violence Shelter: Any of the buildings operated or supervised by HRA that provide shelter in New York City for families who are survivors of domestic violence and have school-aged minor children.

9. Learning Bridges: A New York City program that provides free child care options for children 3-K through 8th grade enrolled in blended learning on the days that they are scheduled for remote learning, or, for children 3-K through 8th grade enrolled in 100% remote learning, on any School Day.

10. DOE Helpdesk Data: An Excel spreadsheet containing the raw underlying data of Helpdesk technical support requests from and/or outreach to families residing in Shelters.

11. School Day: Any day during which school is in session at schools of the New York City school district.

12. Settlement Period: The period of time from the Effective Date until the termination of the Court's jurisdiction over this action upon either: the completion of in-unit WiFi installation at all Shelters listed on Exhibit A; or the date on which DOE schools return to full-time in-person, non-blended instruction without any threshold that would trigger the return to blended or remote learning, whichever is earlier.

13. Shelter or Shelters: Any of the DHS Shelters for Families with Children or HRA Domestic Violence Shelters.

14. Shelter Provider or Provider: Any entity that, through contractual, licensing, or other arrangements with DHS or HRA, operates or runs any Shelter, or DHS or HRA itself, to the extent it directly operates Shelters.

15. Shelter Staff: Any employee of an entity that, through contractual, licensing, or other arrangements with DHS and/or HRA, operates or runs any Shelter, including DHS or HRA themselves.

16. Substantially Complete: With respect to WiFi installation, substantially complete means that in-unit modems and routers have been installed in each Shelter unit, except with respect to Shelters that have installed hallway access points as indicated in Exhibit A, where in-unit modems and routers will be installed after other shelters on Exhibit A are completed; and/or where factors outside of Defendants' control or unexpected issues relating to construction or access have delayed WiFi installation.

II. CLASS CERTIFICATION

17. For purposes of settlement, the parties agree to certification of a mandatory Class under Rule 23(b)(2) of the Federal Rules of Civil Procedure.

18. The Class shall be defined as all 3-K to 12th grade students, and custodial parents or guardians of such students, who are enrolled in any school, whether public or non-public, who currently reside in or resided in DHS Shelters for Families with Children and/or HRA Domestic Violence Shelters operated by or on behalf of the City of New York and/or any of its agencies at any time from March 26, 2020 through the end of the Settlement Period, and who lack or lacked

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