

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Nikita Petties, et al.,

Plaintiffs,

v.

The District of Columbia, et al.,

Defendants.

Civil Action No. 95-0148 (PLF)

FILED

OCT 11 2002

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

MODIFICATION OF ORDER OF REFERENCE

Upon the joint motion of the parties to modify the Court's July 8, 1997 Order of Reference appointing a Special Master and specifying her powers and duties, and consideration of the record of this case, it is hereby,

ORDERED that the parties' motion is granted, and in addition those powers and duties established in the Court's Order of July 8, 1997, the powers and duties of the Special Master shall include:

1. The Special Master shall hold proceedings to resolve disputes regarding payments made pursuant to the Orders in this case, when such disputes are between the defendants and: special education schools, residential facilities or related service providers that serve class members, including District of Columbia Public School (DCPS) students and wards of the District of Columbia, pursuant to a court order, administrative decision, notice of placement or by agreement with DCPS (herein collectively referred to as "providers.")

2. Proceedings shall be held upon receipt of a written proceeding request, provided that such request complies with the Orders of this case. Proceedings shall be

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held within 20 days of receipt of a proceeding request unless the parties, provider, and the Office of the Special Master agree to a continuance. Formal rules of evidence and civil procedure shall not apply, however, each litigant shall have the opportunity to present a case and submit supporting documentation. Upon the request of any litigant or plaintiffs' counsel, a proceeding shall be recorded.

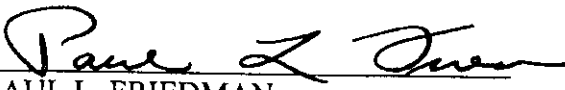
3. Within 10 days after the proceeding, the Special Master or her designee shall issue a written report with findings and recommendations for resolving the dispute and shall file such report with the Court and provide copies to the defendants, provider, and plaintiffs' counsel. Upon request and consideration of whether there was substantial justification for bringing, maintaining, or defending a payment dispute, the Special Master may recommend allocation and payment of costs by a provider or by DCPS, as justice may require. With respect to any report filed by the Special Master or her designee pursuant to this paragraph, the defendant and plaintiffs' counsel shall be provided with any opportunity under FRCP Rule 53 to raise any objections or defenses that are warranted. Upon a full review of the arguments presented by counsel, the Court will decide whether or not to affirm the Special Master's recommendations or take some other action.

4. The Special Master, in consultation with the defendants and plaintiffs' counsel, may recommend appointment of a proceeding officer as designee to perform the duties described in this Order. Such appointments may include *pro bono* organizations, volunteers, law school clinics, or other lower-cost alternatives.

5. With respect to any report filed by the Special Master or her designee pursuant to this Order, the defendant and plaintiffs' counsel shall be provided with an opportunity

under FRCP Rule 53 to raise any objections or defenses that are warranted. Upon a full review of the arguments presented by counsel, the Court will decide whether or not to affirm the Special Master's recommendations or take some other action.

IT IS SO ORDERED.


PAUL L. FRIEDMAN
United States District Judge

Date: 10/10/02