

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CHARLES H., on behalf of himself and all
others similarly situated, et al.,

Plaintiffs,

v.

DISTRICT OF COLUMBIA, et al.,

Defendants.

Civil Action No. 1:21-cv-00997 (CJN)

ORDER

Before the Court is Plaintiffs’ Motion for Contempt for Failing to Comply with the Preliminary Injunction Order, ECF No. 72. Having heard oral argument on the Motion and based on the entire record, the Court grants it in part, holding Defendants in contempt. But it will not grant Plaintiffs all the relief they seek.

This putative class action began in April 2021. *See generally* Compl., ECF No. 4. Plaintiffs, students receiving special-education services in the D.C. Jail’s Inspiring Youth Program, allege that they were deprived of the education they are entitled to under the Individuals with Disabilities Education Act, or “IDEA,” 20 U.S.C. §§ 1400, *et seq.* *See generally id.* They moved for a preliminary injunction, ECF No. 12, and this Court granted that motion on June 16. *See* Order Granting Plaintiff’s Motion for Preliminary Injunction, ECF No. 37. The Preliminary Injunction required Defendants, “within 15 days,” to provide every student enrolled in the Inspiring Youth Program “with the full hours of special education and related services mandated by their Individualized Education Programs (‘IEPs’) through direct, teacher-or-counselor-led group classes and/or one-on-one sessions, delivered via live videoconference calls and/or in-

person interactions.” *Id.* at 1. It also required Defendants to provide status updates every thirty days to keep the Court updated on their compliance. *Id.*

It is clear from the record that Defendants have failed to comply with the nonreporting requirements of the Preliminary Injunction. In each month covered by the Injunction—and certainly since September 1, when the regular school year commenced—Defendants have failed to provide at least some students with the specialized education and services laid out in the students’ IEPs. *See* Hours Chart for June & July, ECF No. 51-4; Hours Chart for August, ECF No. 64-2; Hours Chart for September, ECF No. 71-3; Hours Chart for October, ECF No. 75-3; Hours Chart for November, ECF No. 81-2; Hours Chart for December, ECF No. 90-2; Hours Chart for January, ECF No. 96-2. While things have improved for the month of January, *every* student currently enrolled in the Program remains at an inexcusable educational deficit for this school year—a failure all the more baffling given that the Court entered its Preliminary Injunction months before the school year began. *See* Aggregate Hours Chart, ECF No. 96–3.

Defendants do not contend that they have complied with the Injunction. Nor have they sought relief from it to account for changing circumstances. Instead they essentially argue that they are trying to comply, but for various reasons it is difficult to do so. *See* Mem. in Opp., ECF No. 76 at 12–17.

Courts, of course, have an inherent civil contempt power to enforce their orders. *Shillitani v. United States*, 384 U.S. 364, 370 (1966). It is a purely remedial power, one that coerces compliance rather than inflict punishment. *Univ. of Colo. Health at Mem’l Hospital v. Becerra*, 531 F. Supp. 3d 10, 19 (D.D.C. 2021) (citing *Food Lion, Inc. v. United Food & Com. Workers Int’l Union, AFL-CIO-CLC*, 103 F.3d 1007, 1016 (D.C. Cir. 1997)). The Court can hold a party in civil contempt “if the putative contemnor has violated an order that is clear and unambiguous,

and the violation must be proved by clear and convincing evidence.” *Broderick v. Donaldson*, 437 F.3d 1226, 1234 (D.C. Cir. 2006) (quoting *Armstrong v. Executive Office of the President*, 1 F.3d 1274, 1289 (D.C. Cir. 1993)). But even then, the ultimate question of holding a party in contempt lies in the Court’s discretion. *Marshall v. Local Union No. 639, Int’l Bhd. of Teamsters*, 593 F.2d 1297, 1303 (D.C. Cir. 1979).

The Court will exercise its discretion to hold Defendants in contempt. It is beyond doubt (indeed, it is essentially conceded) that Defendants have failed, and are continuing to fail, to comply with the Preliminary Injunction. They have had ample time to do so, yet remain out of compliance.

What, then, is the appropriate remedy? As noted above, the purpose of civil contempt is to coerce compliance. Plaintiffs suggest the Court do so in several ways, including by requiring biweekly reporting and by requiring Defendants to immediately begin providing students with more hours of education. But the Court is not convinced that biweekly reporting will improve things compared to the monthly reporting already required; as counsel for Defendants noted at oral argument, compiling those reports is time intensive, and it is not at all apparent what more frequent reporting will achieve. Nor is the Court assured that requiring Defendants to simply add hours of education and related services to the hours currently required by each student’s IEP makes sense. Each student’s educational needs are different, and the appropriate plan for making up for Defendants’ failures to have complied with the Court’s injunction as to each student will likely differ.

Accordingly, the Court finds that the most appropriate relief is as follows. First, no later than March 15, 2022, Defendants shall submit to the Court, under seal, individualized plans as to how they plan to remedy, for each student enrolled in the Inspiring Youth Program between the

dates of September 1 and January 31, Defendants' failure to comply with the Preliminary Injunction. Second, also by March 15, 2022, Defendants must fully implement the technology necessary to permit students to engage in synchronous remote learning. And third, to account for the risk that certain students might age out of their IDEA eligibility, the Court extends those students' eligibility beyond their 22nd birthday for the amount of time necessary to ensure they receive the education they would have received had Defendants complied immediately with the Injunction.

The Court does not enter this Order lightly. It certainly does not wish to be in the business of micromanaging the D.C. Jail or Defendants' compliance with the Preliminary Injunction. And it is encouraged by Defendants' apparent progress in coming into compliance with the Preliminary Injunction. But those efforts are just too late to escape a finding of contempt.

Accordingly, it is

ORDERED that Plaintiffs' Motion for Contempt for Failing to Comply with the Preliminary Injunction Order, ECF No. 72, is **GRANTED IN PART** and **DENIED IN PART**;

ORDERED that Defendants are adjudged in contempt of the Preliminary Injunction issued by this Court on June 16, 2021, ECF No. 37;

ORDERED that by March 15, 2022, Defendants shall submit to this Court, under seal, individualized plans on how to rectify the hours deficit of each student enrolled in the Inspiring Youth Program for the period between September 1, 2021 and January 31, 2022;

ORDERED that by March 15, 2022, Defendants shall have a remote-learning system fully operational for all students in the Inspiring Youth Program to such a degree that students may be provided their required special-education services vial live videoconference calls; and it is further

ORDERED that the IDEA eligibility of all students is extended beyond their 22nd birthday for the amount of time necessary to ensure that they receive the education that they would have received had Defendants complied immediately with the Preliminary Injunction.

IT IS SO ORDERED.

DATE: February 16, 2022



CARL J. NICHOLS
United States District Judge