

2002 WL 31887733

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United States District Court,  
S.D. New York.

Elsa GULINO et al., Plaintiffs,  
v.

THE BOARD OF EDUCATION OF THE CITY  
SCHOOL DISTRICT OF THE CITY OF NEW  
YORK and the New York State Education  
Department, Defendants.

No. 96 Civ.8414 CBM. | Dec. 26, 2002.

## Opinion

### **MEMORANDUM OPINION AND ORDER**

MOTLEY, J.

\*1 In this court's Opinion and Order dated November 22, 2002, the court ruled that "plaintiffs fail to state a claim against the SED for actions taken prior to January 1,

1991," and granted SED's motion for summary judgment on that discrete issue. *Gulino et al. v. Board of Educ. of City School District of City of New York*, 2002 WL 31654974 at \*18 (S.D.N.Y.) (Westlaw erroneously places the date of the Opinion and Order on November 25, 2002.). At the time of its decision, the court misapprehended the scope of the "substantial equivalence" requirements that pertained with regard to the City Board's teacher certification power prior to 1991. *See id.* In light of some of the evidence adduced at trial thus far-particularly the testimony of Charles Mackey on December 19, 2002 regarding SED's approval of the City Board's certification requirements-the court has concluded that there remains an issue of fact as to whether SED played a significant role in the licensing of City teachers before January 1, 1991. Accordingly, the court now reverses its ruling with respect to that part of SED's motion for summary judgment.

The court takes this action now, before plaintiffs have rested and at the beginning of the two week holiday recess, so that the parties may present evidence relating to this issue if they choose.