

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Michael Kane; William Castro; Margaret Chu; Heather Clark; Stephanie Di Capua; Robert Gladding; Nwakaego Nwaifejokwu; Ingrid Romero; Trinidad Smith; Amaryllis Ruiz Toro,

Plaintiffs,

21 Civ. 7863 (VEC)

- against -

THE NEW YORK CITY DEPARTMENT OF EDUCATION, MEISHA PORTER, Schools Chancellor of the New York City Department of Education, in her official capacity, THE CITY OF NEW YORK, BILL DE BLASIO, Mayor of New York City, in his official capacity, DEPARTMENT OF HEALTH AND MENTAL HYGIENE, and DAVE CHOKSHI, Commissioner of the Department of Health and Mental Hygiene, in his official capacity,

Defendants.

**DECLARATION OF
LORA MINICUCCI
IN SUPPORT OF
DEFENDANTS'
OPPOSITION TO
PLAINTIFFS' MOTION
FOR A PRELIMINARY
INJUNCTION**

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LORA MINICUCCI, declares, pursuant to 28 U.S.C. § 1746 and subject to the penalties of perjury, that the following is true and correct:

1. I am an Assistant Corporation Counsel in the Office of Georgia M. Pestana, Corporation Counsel of the City of New York, attorney for defendants in the above-captioned action. I am familiar with the facts set forth herein. I respectfully submit this declaration in support of defendants' motion to dismiss the amended complaint. This declaration is based on personal knowledge and a review of the files maintained by this office.

2. Attached hereto as Exhibit A is a copy of Order of the Commissioner of Health and Mental Hygiene to Require COVID-19 Vaccinations dated August 24, 2021.

3. Attached hereto as Exhibit B is a copy of the Order of the Commissioner of Health and Mental Hygiene to Require COVID-19 Vaccinations dated September 15, 2021.

4. Attached hereto as Exhibit C is a copy of the Order of the Commissioner of Health and Mental Hygiene to Require COVID-19 Vaccinations dated September 28, 2021.

5. Attached hereto as Exhibit D is a copy of the arbitration decision in *Board of Education of the City School District of the City of New York and the United Federation of Teachers, Local 2, AFT, AFL-CIO, Re: Impact Bargaining*, Decision Dated September 10, 2021.

6. Attached hereto as Exhibit E is a copy of the Arbitration Award in *Board of Education of the City School District of the City of New York and the Counsel of Supervisors and Administrators ("CSA") (Impact Bargaining)*, dated September 15, 2021.

7. Attached hereto as Exhibit F is a copy of *Child Covid-19 Cases Rise in States Where Schools Opened Earliest*, Yoree Koh, Wall Street Journal, Sept. 5, 2021, <https://www.wsj.com/articles/child-covid-19-cases-rise-in-states-where-schools-opened-earliest-11630834201>, last accessed on September 15, 2021.

8. Attached hereto as Exhibit G is a copy of *Covid Cases Rise Sharply Among Kids as School Year Starts*, Ernie Mundell and Robin Foster, US News and World Reports, <https://www.usnews.com/news/health-news/articles/2021-09-03/covid-cases-rise-sharply-among-kids-as-school-year-starts>, last viewed on September 14, 2021.

9. Attached hereto as Exhibit H is a copy of *Children and COVID-19: State-Level Data Report*, American Academy of Pediatrics, also available at : <https://www.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/children-and-covid-19-state-level-data-report/>, last viewed on September 14, 2021.

10. Attached hereto as Exhibit I is a copy of *CDC – Frequently Asked Questions About the Covid-19 Vaccine*, also available at <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/faq.html> (“you should be vaccinated regardless of whether you already had COVID-19”), last visited on September 15, 2021.

11. Attached hereto as Exhibit J is a copy of the declaration of Vicki Berstein, Chief Human Capital Officer at the New York City Department of Education, in support of Defendants’ memorandum of law in opposition to Plaintiffs’ application for a temporary restraining order and preliminary injunction.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
October 4, 2021

/s/ Lora Minicucci
LORA MINICUCCI
Assistant Corporation Counsel