

EXHIBIT I



Liz Vladeck
General Counsel

May 4, 2022

VIA EMAIL

Martin F. Scheinman, Esq.
Scheinman Arbitration and Mediation Services
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Dear Arbitrator Scheinman,

I write regarding the May 3, 2022 letter from the United Federation of Teachers (“UFT”) seeking “expedited resolution” pursuant to your September 10, 2021 Arbitration Award (“Award”). As you are aware, that Award set forth an expedited process for the review of New York City Department of Education (“DOE”) employees’ requests for exemptions and accommodations in connection with the August 24, 2021 New York City Health Commissioner’s Order to submit proof of vaccination by September 27, 2021, as well as options for special separation and placement on leave without pay with benefits (“LWOP”) for unvaccinated DOE employees who had not received an exemption. The UFT contends the placement of certain DOE employees on LWOP effective April 25, 2022 “is not a proper application” of the Award.

As the DOE informed UFT, such placement on LWOP occurred because of DOE’s receipt of information from a law enforcement agency that the employees had not complied with the New York City Health Commissioner’s Order requiring vaccination of all DOE staff. On April 19, 2022, DOE provided notice to these employees that they would be placed on LWOP effective April 25, 2022 based on information that they had uploaded fraudulent proof of vaccination, and advised the employees that if they believed they were receiving the notice in error, they could contact DOEVaccineCompliance@schools.nyc.gov. Those employees who have done so have been further advised that information they submitted is being reviewed.

As many courts have affirmed, compliance with the Health Commissioner’s Order is a condition of DOE employment and the placement of DOE employees on LWOP for failure to comply with the Order, provided that employees receive notice and an opportunity to address concerns, as they were given here, comports with applicable due process procedures. See, e.g., Broecker v. N.Y. City Dep’t of Educ., 21-CV-6387, 2022 WL 426113, at *7-8 (E.D.N.Y. Feb. 11, 2022); N.Y. City Mun. Labor Comm. v. City of New York, 151169/2022 (Sup. Ct. N.Y. County Apr. 21, 2022).¹

While the UFT seeks to avoid this result by claiming that the DOE is “misapplying the Award in bad faith,” the current circumstances—namely, employees identified in connection with a law

¹ A copy of this decision is enclosed.

enforcement investigation into the procurement and submission of fraudulent vaccination cards—is simply outside the scope of the Award. Indeed, while the UFT quotes the Award’s language that “[s]hould either party have reason to believe the process set forth, herein, is not being implemented in good faith, it may bring a claim directly to SAMS for expedited resolution,” the “process” that language refers to is specifically the “administrative process for the review and determination of requests for religious and medical exemptions to the mandatory vaccination policy and accommodation requests where the requested accommodation is the employee not appear at school”—which is unquestionably not at issue here. (Award ¶ I.L.)

For the reasons set forth above, the DOE opposes UFT’s request and maintains that DOE is in compliance with the Award and applicable law and contracts.

Sincerely,

A handwritten signature in blue ink, appearing to read "Liz Vladeck", written in a cursive style.

Liz Vladeck

cc: Beth Norton, General Counsel, United Federation of Teachers