

# **EXHIBIT L**



United Federation of Teachers  
A Union of Professionals

May 11, 2022

*Via E-mail (martin.scheinman@scheinmanneutrals.com)*

Martin F. Scheinman, Esq.  
Scheinman Arbitration and Mediation Services  
322 Main Street  
Port Washington, NY 11050

Dear Arbitrator Scheinman.

I write in response to the Department of Education's (DOE) letter of yesterday. Put simply, the DOE misstates and unduly narrows the issue at hand. The issue is not the DOE's ability to rely on information from a law enforcement agency raising allegations of fraudulent documentation with regard to vaccination. Plainly there is a disputed factual issue regarding the vaccination status of the accused individuals. The question to be decided is whether the Award's allowance for the unilateral placement of certain employees on leave without pay (LWOP) status as part of the overall process set forth in the Award applies to situations where there is a factual dispute, based upon allegations of wrongdoing, as to an employee's vaccination status. And while the DOE now attempts to walk away from its initial citation to the Award, they cannot have it both ways.

For, they cannot both rely on the Award's specific permission regarding LWOP status to unilaterally remove the accused individuals from pay (something not permitted under Education Law §3020-a) and at the same time assert that the issue presented here "falls squarely outside the Award." To allow the DOE to invoke a leave applicable only to those who admittedly are not yet vaccinated would allow the DOE to act as Judge and Jury over the allegations themselves. There is a reason the Award does not provide a separate process to resolve factual disputes regarding vaccination status, as compared with disputes regarding entitlement to accommodation or exemption, and that is because the entire Award applies only to those who are admittedly unvaccinated. To use the Award as an end-run around the statutory process specifically designed to fairly resolve disputed allegations of wrongdoing - §3020-a - is a bad faith application of the entire Award and its procedures. The process cited by the DOE in its letter is the only process available to these employees based upon the DOE's invocation of placement on indefinite LWOP. We agree that the LWOP process doesn't apply here, but given DOE's actions, we need a determination or clarification from you regarding the misapplication of that process.

Sincerely,

Beth A. Norton  
General Counsel

cc: Liz Vladeck, Esq., General Counsel, NYC Department of Education  
Alan M Klinger, Esq.

52 Broadway, New York, NY 10004 p: 212.777.7500 www.uft.org