

EXHIBIT H



United Federation of Teachers
A Union of Professionals

May 3, 2022

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

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

Re: September 10, 2021 Award – Process Not Implemented in Good Faith

Dear Arbitrator Scheinman:

The United Federation of Teachers, Local 2, AFT, AFL-CIO (“UFT”) writes in regard to your Award dated September 10, 2021, in the matter of arbitration between the Board of Education of the City School District of the City of New York (“DOE”) and UFT. As you are aware, the Award sets out procedures for UFT-represented employees to comply with the vaccination mandate applicable to DOE employees. Among the procedures are provisions for compliance with and application for accommodations and exemptions from the mandate, including authorizing the placement of employees on leave without pay (LWOP) while compliance or accommodation are outstanding. With regard to the parties’ actions under the Award, it further states 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.” In accordance with the Award, the UFT brings the instant claim directly to SAMS based on the DOE’s misapplying the Award in bad faith.

On April 19, 2022, the DOE sent e-mail notifications to approximately eighty-two (82) UFT members who had previously submitted proof of compliance with the vaccination mandate in accordance with the procedures of the Award, advising that these members would, nonetheless, unilaterally be placed on LWOP based on allegations of fraudulent vaccination documentation. Without any due process or a hearing, the DOE unilaterally placed these employees on unpaid leave with benefits, precisely the leave described in the Award, effective April 25, 2022, for an undefined duration of time.

By letter dated April 21, 2022, the UFT demanded that the DOE rescind the notices, maintain the pay status of the affected UFT-represented employees, and comply with all applicable contractual, statutory, and constitutional due process procedures before taking any adverse actions against its members. In an

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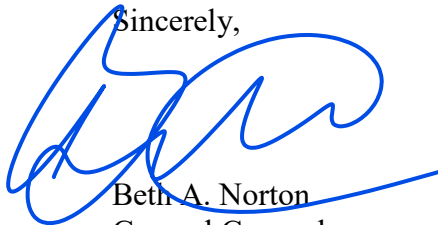
April 22, 2022 letter, the DOE responded with its view that the employees were not vaccinated and that the “DOE cannot permit unvaccinated employees, absent an exemption or accommodation, to perform work for DOE.” Accordingly, the DOE is treating these educators as if they are, in fact, unvaccinated employees who have not requested an exemption pursuant to Section II.A. of the Award and placing them on LWOP. The DOE’s response and utilization of LWOP under the Award is not a proper application of the Award’s provision. Any allegations of fraudulent documentation have yet to be proved under any process. UFT members have statutory and contractual rights to continue their paid employment while the disputed factual issue of their vaccination status is determined through an appropriate process. That process is not obviated by the procedures set forth in the Award.

To highlight the importance of due process here, it has come to the UFT’s attention that the affected employees may include individuals who received booster shots. Such details refute the DOE’s assertion that UFT-represented employees are unvaccinated and establish that LWOP is unjustified. Without adherence to the statutory and contractual procedures, the DOE will unjustly keep such employees on LWOP based on unfounded allegations of fraudulent vaccination documentation.

The DOE’s use of the Award process and leave provision for employees who have submitted proof of vaccination constitutes bad faith on the part of the DOE and warrants “a claim directly to SAMS for expedited resolution” pursuant to the Award.

Enclosed please find copies of the Award, April 19 email, April 21 UFT letter, and April 22 DOE response. The UFT is immediately available for an expedited hearing or conference to address the DOE’s failure to implement the Award in good faith. We await your direction. Thank you.

Sincerely,



Beth A. Norton
General Counsel
United Federation of Teachers

cc: Liz Vladeck, General Counsel, NYC Department of Education