

BETSY COMBIER

Advocatz - UFT

[START UFT Meeting on LWOP.mp3]

MICHAEL MULGREW: Okay. Good afternoon.

Good afternoon, everyone. My name is Michael Mulgrew. Welcome to the town hall that I wish we weren't having, but we're having it. The purpose for today is to make it very clear, so what everyone's real decisions are, once again, there's a lot of misinformation out around this process. I'm going to do a little bit of what we're trying to do, so that you can get to the place where you're more comfortable in your personal decisions, and, again, we want to talk about a little bit what it looks like going through to the end of this year, because those of you who do choose to do the voluntary leave through September 5th, what does that mean? What happens next? September 5th is really the question I'm getting the most from people right now.

So, just a little bit, to go back, we knew that when the mayor came out with his vaccine or test, within two weeks we were getting different pieces of information that the mayor was now contemplating a vaccine mandate, wasn't just the

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2 UFT getting that, but different unions inside of
3 the MLC were getting it, specifically the six
4 unions around the school districts.

5 When Chicago and LA, within a day of each
6 other, did the vaccine mandate, we just assumed
7 it was a matter of time for the mayor to do
8 that. We had already been working with our
9 lawyers, our internal lawyers, as well as our
10 external lawyers, and also the lawyers from the
11 municipal labor council of New York City. The
12 one thing the lawyers were clear to us about
13 from the beginning is that as long as the mayor
14 does this vaccine mandate appropriately,
15 correctly, the courts probably would never
16 overturn it, because it had never been done in
17 over 115 years, and there have been many
18 challenges to vaccine mandates, and it's a very
19 hard law. It's basically both based upon local
20 department of health or basically the federal
21 gov. Those have been the two people, the two
22 organizations that have done the most in vaccine
23 mandates.

24 Well, when the mayor issued his, at that
25 point in time, we communicated, as you know, and

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2 I understood people's anger and frustration, but
3 we had to be honest about the fact that legally
4 we believed they were in their rights. We had
5 to read the order, which was not issued on the
6 day that he announced he was doing this. We had
7 to wait two days to actually get the order,
8 because if the mayor would have issued the
9 order, we would have went directly to court,
10 because that would have been illegal, because
11 the mayor really don't have the authority to
12 issue the order.

13 When the department of health issued the
14 order, it was almost simultaneous with our
15 impact bargaining process. After we read what
16 was in the order, we tried to get clarification
17 in an impact bargaining session, and at that
18 moment, we made the determination that the
19 department of health order was illegal. But, I
20 want to stress this again. There was a lot of
21 conversation amongst union leaders. We could
22 have jumped up and down. We could have screamed
23 at the top of our lungs. But, in the end,
24 knowing that we were probably going to lose a
25 legal challenge, I didn't think that was the

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2 right thing to do. Some of you can be angry
3 about me for that, and that's fine, but I would
4 still make that decision, because I believe that
5 it is, from the beginning of this pandemic, it's
6 always been about trying to be transparent with
7 each other about what we're dealing with,
8 because none of this has been fair.

9 Having someone removed from payroll because
10 the terms and conditions of employment have been
11 shifted is not something we are happy about that
12 at all. But, knowing that legally that any
13 challenge to these orders, if the orders were
14 done properly, would probably end up in failure.
15 But, I felt everyone should know that that's the
16 facts that we are dealing with.

17 Now, look, we know we have a case, a couple
18 actually, not the first case, but another case
19 from New York City that is going before the
20 Supreme Court. Our lawyers are still telling us
21 the same thing, all of the lawyers involved are
22 still telling us the same thing, that Supreme
23 court is probably never going to overturn this
24 mandate or anybody else's mandate, as long as
25 they do them properly.

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2 Here in New York City, once we went to the
3 impact bargaining table, it was determined by us
4 that the city had done their order illegally and
5 improperly, because they did not include
6 religious or medical exemptions or
7 accommodations. During the legal process, the
8 judge did tell the city of New York, when they
9 issued the temporary restraining order, the
10 judge just told the city of New York the
11 following Monday you should amend your order, or
12 you're not going to like the end of this case.
13 So, we had already told the city of New York at
14 the bargaining table, which is why we filed for
15 arbitration, that them not allowing us, they
16 were not willing to give us exemptions or
17 accommodation's in our bargaining process, that
18 that was illegal.

19 We went to our arbitration. They judge
20 lifted the temporary restraining order, because
21 the city had amended. The city knew, at that
22 point, that what they had done was illegal, but
23 even if they would have thrown out the order and
24 said, no, it was illegal, the city would have
25 just reissued the order appropriately. That was

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what would have happened.

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So, for folks, and Michael Sill and his team is going to explain this in detail for everyone, it really comes down to if September—come next September 5th, if the department of health vaccine mandate is still in effect, then, once again, you're going to be faced with this decision. Now, I can't tell you where we're going to be. We're going to have a new mayor. We don't know where we're going to be with the pandemic at that point. So, we don't know yet.

So, that's why we're having this today. We want to get people the information, the right decisions, the right facts that you have to make your decisions around, and knowing that there's a lot of anger and frustration. Because, this has not been fair. It's never been fair. The whole pandemic has not been fair. But, we continue to try to do with using our folks on our side, whether it be our doctors, our lawyers, or anyone else, and that's what guides us, and we'll give you that information, whether people are angry about what information we're giving them or not. We believe it is our

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2 responsibility at all times to be forthright
3 about the decisions that everyone has to make.

4 So, hopefully, we can get through this
5 pandemic rather quickly, and we don't have to
6 be—you won't have to be faced with any more of
7 these choices. But, again, we cannot guarantee
8 that.

9 So, now, I'd like to pass it over to Michael
10 Sill and his team. Michael was at the—went
11 through the entire arbitration with us, and he
12 now can present to everyone what is now on the
13 table for you to consider. Michael?

14 MICHAEL SILL: Hi, everyone. Thanks for
15 being here. Thanks, Michael, for that context.
16 I'm going to go through a very brief
17 presentation here. Then, we want to spend the
18 vast majority of our time answering questions.
19 So, if you're interested in submitting a
20 question, you can do so through the Q&A. I saw
21 somebody had asked about the chat, but you can
22 submit the questions through the Q&A, alright?
23 Then, what we're going to do is we're going to
24 answer the questions that are coming up the
25 most. We'll start with those, and if we have

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any time left over, we'll get to the one-offs.

So, Steve, if you wouldn't mind loading up the presentation, we'll go ahead and get started.

We kind of want to talk about what the options are here. I know a lot of people here are familiar, or have some level of familiarity with what these options are. I know people want to ask specific questions about their own circumstances. If you have a specific question, we might not answer it here, because we want to answer questions that are going to apply to a large number of people, but you can always follow up with a phone call to 212-331-6311 about your specific circumstance, and you can get an answer to those questions. So, Steve we can go on to the next slide.

So, if you log in to Solace now, well, we'll get to that slide in just a minute. So, I know there are people here to probably think they shouldn't be on the unpaid leave, so we want to start with that. Alright? Until we get to the people who know they are on the unpaid leave and want to know what their circumstances are.

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2 So, if you recently uploaded proof of
3 vaccination, you may have done that. Even if
4 you did that like let's say Saturday morning or
5 something, you may have done that after the DOE
6 compiled the list of people who had received the
7 email they sent out about the leave without pay.
8 Alright? That notion like of when you apply for
9 something and how it impacts whether or not you
10 got that email or whether or not you were placed
11 on an unpaid leave is going to apply to all of
12 these bullets, probably. But, anybody who
13 recently uploaded proof of vaccination, you got
14 the email, but you shouldn't be placed on the
15 leave. Alright?

16 Also, if you were approved for an exemption,
17 obviously you're not going to be placed on a
18 leave, but the timing of when you were approved
19 for the exemption may have caused you to get
20 that email.

21 If you have a pending appeal for an
22 exemption, there aren't that many of those still
23 pending, but there are a few, or if you're
24 waiting for an answer on an appeal, you should
25 not be placed on an unpaid leave.

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2 If you were approved for a different kind of
3 leave, I already saw in the Q&A a lot of people
4 are asking about how the unpaid leave, because
5 of the vaccine mandate, interacts with other
6 kinds of leaves that you can apply for. If you
7 are on an approved leave, then you're not going
8 to be placed on the unpaid leave. You may have
9 gotten an email, depending on when you applied,
10 but the other kinds of leaves take precedence,
11 and if you're on a leave of absence, you do not
12 need to provide proof of vaccination until just
13 before you are about to return. Alright? So,
14 if you're on a leave of absence now, like a
15 child-care leave or a restoration of health
16 leave or any other kind of leave that we have,
17 some number of days before you come back, you
18 should get a system-generated email from the DOE
19 saying don't forget to upload your vaccination
20 status, if you're planning on returning from
21 that leave of absence.

22 Even if you have a pending application for a
23 different type of leave, we have a lot of people
24 who applied for a particular kind of leave on
25 Friday, October 1st. They got the email on

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2 Saturday, October 2nd, saying that they had been
3 placed on the unpaid leave, and they reached out
4 saying, hey, I applied for this leave, how come
5 I got the email. It's just a matter of timing.

6 So, every day, the DOE is going through and
7 finding the people who applied, finding the
8 people who had pending applications, and taking
9 them off the unpaid leave. Alright? And, we're
10 doing that work as well. Somebody reaches out
11 to us and says I applied for a leave. Why did I
12 get this email? We're sending those people's
13 names to the DOE to make sure that we're
14 highlighting the fact that they should be taken
15 off of the unpaid leave and have the leave
16 application that they applied for reviewed.
17 Alright?

18 Also, if you're using COVID days, we had a
19 number of people who got temporary exemptions
20 based on the fact that they're currently in a
21 quarantine period after having tested positive
22 for COVID. Even if people did not apply for
23 that temporary exemption, or if for some reason
24 they were denied that temporary exemption for
25 being COVID positive in the days just prior to

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1 the mandate going in to effect, if you were
2 using COVID days and your secretary or your
3 timekeeper was inputting those COVID days, then
4 you shouldn't have been placed on the unpaid
5 leave. It's likely you got the email, but it's
6 also just as likely that you will not be placed
7 on the unpaid leave. Of course, once the
8 quarantine period is over, if you don't get
9 vaccinated, then you will eventually be placed
10 on that leave. Steve, will you move to the next
11 slide?
12

13 So, if you're on the unpaid leave, and you
14 log in to Solace, you're going to see these
15 options now. We don't love the language of
16 these options, because it doesn't match the
17 language that people have become familiar with,
18 because of the arbitration. So, the DOE is
19 revising this language, but the options are
20 going to be the same. Alright? So, the first
21 option, return to work within seven days, what
22 that means is a person who goes and gets the
23 first shot, in the arbitration what it says is a
24 person who uploads proof of vaccination after
25 having been placed on the unpaid leave need to

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2 be returned to their school as soon as is
3 practical, but in no case more than seven days
4 after that vaccination and proof is uploaded.
5 In truth, we've had a number of people, as you
6 can imagine, who have gone and gotten vaccinated
7 this week, and they've been able to go back
8 immediately, alright, whether that was Monday
9 morning, Tuesday morning, to today. To the
10 extent that somebody chooses that option, if you
11 click that, you'll be directed to the vaccine
12 portal page. You can upload the proof of
13 vaccination.

14 But, what I would suggest is you contact
15 your school. You bring the vaccination card to
16 your school the next day, and you should be let
17 in. Now, they might say I have seven days to
18 take you back. Right? And, that is true. The
19 arbitration says as soon as is practicable, and
20 in no case more than seven days. So, we could
21 make the argument and the grievance, for
22 example, if they took you back three days later,
23 we could make the argument and grievance that
24 actually you should have been paid for those
25 three days, because you got vaccinated, you were

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2 in compliance, it was practicable for them to
3 bring you back. Let's say they're paying a sub
4 to cover your classes for those three days, like
5 they could have just told the sub, okay, you're
6 going to be reassigned to a different class, or
7 what have you, and we're bringing back this
8 person. So, the arbitration says within seven
9 days, but in most cases, at this point, it
10 should be immediate.

11 Resign with special provisions and retire,
12 this is what we have been talking about as
13 severance, and in the arbitration is actually
14 referred to as separation. This is for people,
15 we'll talk about it in just a little bit, who
16 decide they want to take the severance
17 agreement, the separation agreement, get the CAR
18 days one-for-one, and have medical benefits up
19 through September 5th of 2022. And, if you're of
20 retirement age, and I know David Kamansky with
21 us today, who's going to be able to answer some
22 questions about retirement and pension and that
23 kind of thing, but if you're eligible to retire
24 at the time of the resignation, you can do that
25 right after. So, that's an option.

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2 If you're not able to retire or you're not
3 interested in retiring right now, and you want
4 to resign and take the severance package, that's
5 that third option, resign with special
6 provisions. Then, there's resign and retire.
7 Alright?

8 So, I don't know how many people this would
9 apply to, because if you just resign, for
10 example, you're not going to have your medical
11 benefits up through next September. You are not
12 going to get the one-for-one CAR days, but maybe
13 somebody would make this choice if, for example,
14 they didn't want to sign the waiver, and they
15 were thinking about filing suit down the line,
16 or something like that.

17 Same thing with retire, if your retirement
18 age, but you don't want to sign the waiver that
19 comes with the severance agreement.

20 One option that you don't see here is to
21 extend the unpaid leave of absence. That will
22 come later. In the arbitration, you need to
23 make the decision about if you're going to take
24 the severance, you need to make that decision
25 prior to October 30th. Whereas, if you're going

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2 to extend the leaves, you need to do that by
3 November 30th, so that option will be there at
4 some point in the near future.

5 Steve, do you want to go to the next page?

6 So, the options, I mean I'll just kind of
7 talk about these, looking at that Solace page,
8 but these are them again. I think we've already
9 said all of this, Steve, so let me just go on to
10 the next slide.

11 Alright, this is going a little bit deeper
12 on the severance option. I started to talk
13 about this just a minute ago. But, you're able
14 to cash in the CAR days on a one-to-one basis.
15 Usually, you get paid for if you take
16 termination pay after you resign, retire, or
17 terminate, you get paid one day for every two
18 you have in your bank. Here, you get paid one
19 for every one day you have. You'll be deemed
20 involuntarily resigned, and it'll be non-
21 disciplinary. So, we can't make any guarantees
22 about unemployment. That's the department of
23 labor decision. But, typically, a person who
24 leaves their position involuntarily and not for
25 discipline reasons is eligible to receive

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2 unemployment. So, that's why that language is
3 kind of strange, like you are making the
4 decision, but it's deemed an involuntary leave.
5 I would just say that anybody who logged on like
6 yesterday or today to Solace looking for the
7 severance agreement saw a letter that said I am
8 involuntarily resigning. That letter has been
9 changed. The DOE has updated that letter. I'm
10 not sure if it's available in Solace just yet,
11 but if you want to take this option, then you
12 want to make sure you have the right letter that
13 we convinced the DOE to change earlier today,
14 and you might want to wait till like tomorrow to
15 fill that out.

16 You do get medical insurance, whatever kind
17 of medical insurance you have from the city, for
18 one year. That's also welfare fund. As long as
19 you don't have access to other insurance
20 coverage during that period, you get to maintain
21 that. Alright? Again, you have until October
22 29th to choose this option. I said October 30th
23 before. October 29th to make that choice.

24 Once you resign, like no matter what the
25 circumstances are, you need to find another

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1 position before you can return. When people
2 talk about resignation, there's this term that's
3 out there in the world, the DOE world, called
4 withdrawing your resignation. Sometimes, people
5 think that means they can make their resignation
6 disappear. In fact, that is not what that
7 means. If you resign, you have to find a
8 position in the DOE, like whether that's at your
9 former school or at a different school or like
10 in a DOE office, what have you. Once you are
11 rehired, then you fill out a withdrawal of
12 resignation form, and as long as you do that
13 within five years after you resign, you'll get
14 your tenure back, if you had it. You get your
15 seniority back, the salary step and longevity
16 that you were on and all that kind of stuff.

17
18 The last, resign and then retire, you don't
19 need to retire in order to cash in your CAR days
20 on a—this bullet is about what happens after the
21 100 CAR days. So, let's say I have 150 CAR days
22 in my bank, I get one for one for the first 100.
23 The next 50, I get on the traditional two-for-
24 one basis. So, I would be getting cashed out
25 for 125 days. That 100 days is going to come in

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2 one payment. The 25 days will get paid out as
3 typical for termination pay, which is in three
4 equal payments of one two months after approval
5 of the termination pay application, the second
6 payment a year later, the third payment a year
7 after that. But, this says retire, and you
8 don't need to retire. All you need to do is
9 leave the system in order to get termination
10 pay.

11 So, going on to the next slide.

12 The unpaid leave, we were talking about this
13 just a moment ago as well. This is what it
14 sounds like. That's what everybody was told
15 they were going to be put on as of Monday. It
16 is an unpaid leave. Everybody is on it now, but
17 if you want to extend that through September of
18 next year, you're going to have to take action
19 via Solace at some point here in the future.
20 Right? We'll email everybody when that option
21 becomes available. By the way, if you got the
22 email from the DOE, but you didn't get an email
23 from the UFT, that probably means that you're
24 not signed up for UFT emails, so you want to
25 call that number I gave you before, 212-331-

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2 6311, to make sure that you get any follow-up
3 emails on this or any other topic. Alright?
4 But, if you don't take the severance, and you
5 don't apply to extend the leave by November 30th,
6 then you're going to be subject to disciplinary
7 actions. So, if you're a tenured teacher, that
8 means that DOE will bring you up on 30-20A
9 charges. You won't get paid until that time.
10 You'll be on an unauthorized leave, but then
11 you'll have your day in front of an arbitrator
12 on the discipline. But, you won't have the
13 medical benefits from now till September if you
14 do that. Alright?

15 You're prohibited from engaging in gainful
16 employment during the leave period. I've got a
17 lot of questions about this. I know, like all
18 of us at UFT, I have gotten a lot of questions
19 about this. This was something that was decided
20 by the arbitrator. It's our position, clearly,
21 that people ought to be able to work while
22 they're on the unpaid leave. Most leaves of
23 absence in the DOE, with the exception of
24 childcare leave, you cannot work. Right? And,
25 so, that's what the arbitrator decided here. I

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1 think the way to think about this is not to say
2 that why can't I work while I'm on the unpaid
3 leave. I think it really is why can't I be on
4 the unpaid leave while I'm working? Because,
5 obviously, they can't prohibit you from working,
6 but they can prohibit—they cannot provide you
7 with the benefits while being on the unpaid
8 leave. Clearly, anybody who takes a severance
9 option can work outside of the DOE, whether that
10 job is a job you had before, whether it's a job
11 during or after, outside of your typical DOE
12 hours. None of that matters for the purposes of
13 this arbitration. If you're on the leave, if
14 you're working, you can't be on the leave, but
15 you can clearly take the severance option,
16 maintain the medical benefits for the same
17 amount of time.

19 What you lose by taking the severance option
20 versus being on the leave option is the ability
21 to return to your school. Somebody who's on the
22 unpaid leave who either decides to get
23 vaccinated and return will return to their
24 school, or if by September 5th of next year, if
25 the vaccination mandate is lifted, that person

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1 will be able to return to their school.

2 Alright?

3
4 So, we talked about the health insurance
5 through September 5th of 2022, and the fact that
6 the position at your school is held.

7 Some people have asked about the particular
8 position, which I take to mean the program.
9 Like, if you're the 5th grade teacher, and you
10 return at a certain point, do you go right back
11 to teaching your 5th grade class? I think the
12 longer you wait to return, the less likely it is
13 that you'd be able to return to the position.
14 The arbitration says you return to your school,
15 not to your program. But, I do know that like
16 right now, this week and next week, they budget
17 lines for your position are frozen. Right? So,
18 they can't hire someone in to that vacancy at
19 this point. What they can do is they can hire a
20 sub and assign them to that class, but if you
21 come back in that circumstance, you should get
22 your position back, but the arbitration only
23 guarantees that you return to your school or
24 workplace, if you don't work in a school, and
25 that's what we said.

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2 If you go all the way to September 5th, and
3 the vaccine mandate is still in place, then
4 you're going to be deemed voluntarily resigned
5 at that time. Now, remember, the severance
6 package is involuntarily resigned. If you take
7 the leave, at the end of the day, will be
8 voluntarily resigned, and that can have an
9 impact for a person's ability to collect
10 unemployment at that time.

11 I saw some questions in the chat before we
12 got to the presentation, in the Q&A, excuse me,
13 before we got to the presentation, where people
14 were asking, can I apply for a different kind of
15 leave, like for the fall of 2022, for example?
16 You can. The arbitration says that if you're
17 the unpaid leave, and you would otherwise be
18 eligible for a leave of absence, like if you
19 have a child who's under the age of five, you
20 could apply for a childcare leave for the fall
21 of 2022. One thing you can't do in the DOE, and
22 it's not specific to this unpaid leave, but you
23 can't go, and you never could go, from an unpaid
24 leave to a paid leave. So, if you wanted to
25 take a sabbatical or if you wanted to take a

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1 restoration of health leave, God forbid you
2 should need it, in the fall of 2022 and use CAR
3 days at that point, you can't do that. Alright?
4 You can't go from an unpaid leave to a paid
5 leave. Again, that's been the case for 50
6 years, or whatever. Alright?

8 So, you can go on to the next.

9 So, now, we're just going to go to the
10 questions. We've had people who have been
11 pulling out the most common questions, as I
12 said. I have David Kamansky here with me, so
13 when the questions have something to do with
14 retirement and pension, he can take that.

15 Before I do that, Dave, is there anything
16 you wanted to say before we get to the Q&A?

17 DAVID KAMANSKY: Yes. So, I think the most
18 important thing in the thread that I keep seeing
19 in the questions is not all of the rules around
20 leaves or severance or anything have modified
21 the existing rules about the pension plans. The
22 rules for the pension plans are exactly the same
23 as they were a year ago, two years ago. That's
24 all the same. Right?

25 So, if you're eligible to retire, then

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2 you're eligible to retire. If you were in a
3 plan that allows you to retire at age 55, then
4 you can retire at age 55. If you're vested and
5 you have money in the pension fund and money in
6 the TDA, and you're vested, then your money is
7 locked in, and when you become eligible to
8 retire, or age-eligible to retire, you can
9 access those monies. So, none of the existing
10 rules around pensions have changed at all. So,
11 whether you take the severance or not, whether
12 you go on a leave or not, doesn't change your
13 relationship with the pension plan. The rules
14 for the pension plan are set by state law for
15 the most part. Those are locked in place and
16 aren't modified by the conversations that we had
17 here in the arrangements that the city and the
18 UFT and the DOE have all put forward.

19 So, I just wanted to get that out there
20 first.

21 MR. SILL: Alright. Thank you. So, I'm
22 just going to go through these. We have people
23 who are going through the questions and pulling
24 out the questions that are being asked
25 repeatedly, so we're trying to get the most bang

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2 for our buck in answering these questions,
3 answering questions that apply to most people.

4 The first one I think we talked about, but
5 working outside of contractual hours. The
6 prohibition while you're on the unpaid leave of
7 absence against being gainfully employed does
8 not distinguish between work that happens during
9 contractual hours, outside of contractual hours,
10 whether you had the job before you started
11 working for the DOE or before the vaccine
12 mandate went in to effect or if it's a job that
13 you're going to get now. I can imagine that
14 like everybody needs to work, or almost
15 everybody. So, if that's something that you're
16 looking to do, and you're committed to not being
17 vaccinated, then probably what you'd be looking
18 at is a severance package, knowing that if you
19 want to return to the DOE at a later time, you
20 have to find a position. Right?

21 Then, the next one, David, I don't know if
22 there's more to say about it, but what will
23 happen with the pension if we take the
24 severance, if we leave and take the severance?
25 I don't think there's anything more to say about

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that, unless you do.

MR. KAMANSKY: Yes, I mean it's basically generally the same. If you are, depending on what tier you're in, some people are in tier four, it has different rules than tier six, some people are in different versions of tier four, whether it's the original plan or 55/25 or 55/27, whatever the rules are for those, those are exactly the same. So, if you, for example, are in the 55/25 plan, you've got 25 years in, but you're not 55 yet, but will be 55 in March of 2020. Well, March of 2020, when you turn 55, you can retire, because you'll have 25 years of service prior to going on the leave or the severance or whatever, and you'll be able to collect an immediate retirement under that plan. So, whatever the rules for your plan is, and your tier, those are the same.

MR. SILL: Alright. Question here is this is my tenure year or is it not, what should I do? So, I think this is true also for service for retirement, but David can correct me if I'm wrong. But, if a person goes on a leave without pay, whether that's this leave without pay as a

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1 result of the vaccination mandate or any other
2 leave without pay, you're not accruing time
3 while you're on that leave without pay. So, if
4 you're on this leave without pay for one month,
5 and then you return to active service, then your
6 tenure date is going to get pushed back the same
7 amount of time, that one month. Alright?

8 That's going to be true for all your seniority
9 milestones. Right? If you were supposed to get
10 a five-year longevity in September of 2022, and
11 you're on leave for two months, now you're going
12 to get it in November of 2022. Alright? So, if
13 somebody were on the unpaid leave for this
14 entire year, having started in October, if your
15 tenure date was September 6th of 2022, now it's
16 going to be October 4th of 2022, something like
17 that. Excuse me, 2023.

18
19 MR. KAMANSKY: Right. And, the same holds
20 true for the pension. You can only accrue
21 pension credit while you're collecting a salary
22 from the department of ed, so if you're on any
23 kind of unpaid leave or you've resigned,
24 everything kind of stops at that point. Should
25 you come back, it picks up from that point going

1 forward.

2
3 MR. SILL: Alright. I'm getting my first
4 dose Friday evening, am I able to return to work
5 on Tuesday, October 12th? I think I talked about
6 this during the presentation. The arbitration
7 says they have to take you back within seven
8 days. Alright? But, in practice, the DOE has
9 been bringing folks back immediately. My
10 suggestion is to notify your principal or your
11 supervisor that that's your plan, to get
12 vaccinated on Friday, and ask them if it's
13 alright for you to come on Tuesday, October 12th.
14 If they say no, I would advise, even whether you
15 show up there on Tuesday morning or you just
16 send an email saying I am ready, willing, and
17 able to come to work on Tuesday. I understand
18 you're telling me that I cannot. That's
19 something we might want to use in a later
20 grievance, like if say they were to bring you
21 back on Friday, October 15th, we would try to get
22 you back those three days of pay. We would
23 attempt to via grievance. So, there is the
24 language-what we would basically be arguing is
25 it was practicable to bring you back on the 12th,

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2 and they didn't do it, so they violated the
3 terms of the arbitration.

4 Does the severance option still apply for a
5 member who decides to move out of the state of
6 New York? Yeah, if you're on the unpaid leave
7 of absence, and you take the severance option,
8 at that point, what you do is it doesn't matter.
9 You've separated from the DOE. You're going to
10 get paid those days, and obviously, if you get
11 paper checks, you're going to want to update the
12 address where you get the paper check from, but
13 it does not impede you from enjoying the terms
14 of the severance, benefitting, I guess I should
15 say, from the terms of the severance.

16 If you're already on a leave of absence,
17 either restoration of health or maternity and do
18 not plan to get the vaccine, can your leave roll
19 over to leave without pay? Yes. If you're on
20 any kind of leave of absence, let's say that
21 it's supposed to end at some point during this
22 school year, in order for you to return to
23 active service, you're going to have to upload
24 proof of vaccination. Alright? If you don't do
25 that, then on the day that you were supposed to

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2 actually return to active service, you're going
3 to end up being placed on the unpaid leave,
4 alright, with all that goes with that, the
5 benefits through September 5th.

6 The next one, if you're on leave without
7 pay, can you take the severance and then retire?
8 I mean I think we talked about that already.
9 You certainly can.

10 I can see another question about after-
11 school jobs. Again, you can't be on a leave
12 without pay while you're working another job. I
13 mean, look, I don't know how the DOE knows that.
14 I'm certainly not advocating that somebody, you
15 know, represent themselves in a way that is not
16 true. But, you know, I don't know how they
17 would find that information out. But, the
18 arbitration does forbid that.

19 Am I supposed to be removed from work emails
20 while you're on a leave without pay? No. In
21 fact, when you're on a leave of absence, you
22 have to keep checking your email. Alright?
23 This is something we talk about in the leaves
24 department all the time with members. You say
25 like I'm on a leave without pay, they can't ask

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1 me to do anything. Well, there's a lot they
2 can't ask you to do, but they can ask you to
3 check your email. And, really, it behooves you
4 to do so. Because, anybody who's on a leave of
5 absence, like through the end of a school year,
6 during the spring, they're going to start
7 receiving emails through their DOE email, and
8 they'll receive emails from us, too, if you're
9 signed up for UFT emails, but asking you to
10 declare your intent for the following school
11 year. Alright? So, that's return from a leave,
12 to extend your leave, to apply for a different
13 leave, maybe resign, retire, whatever your plans
14 are. Because, if you don't, then similar to
15 what's going to happen with this leave without
16 pay if you stay on it through September 5th, if
17 you do not declare your intent for the following
18 school year, then you're deemed voluntarily
19 resigned for the next school year. Alright?
20 And, if you want to avoid that, you've got to
21 check your email, so that you don't miss that
22 deadline to declare your intent. So, they can't
23 take you off the work emails, they can't take
24 away your DOE email. Whether or not your

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2 principal stops emailing you about like the PD
3 or something like that is another matter. Like,
4 if you have a school Gmail account or something
5 like that, that's another story, but they don't
6 disable your schools NYC.gov email for being on
7 a leave.

8 Going over the steps after vaccination to
9 get back to work, first step is you have to
10 upload your vaccination in to the vaccine
11 portal. It's not hard to find that. If you
12 just search NYC DOE vaccine portal, you'll find
13 it. It will ask you to upload a picture of your
14 vaccination card or some proof from the
15 Excelsior pass, and then you're going to notify
16 your principal or supervisor, and we talked
17 already about which you want to do in order to
18 come back as quickly as possible.

19 Somebody's asked, does health insurance stay
20 for the whole family? And, how's the health
21 insurance paid for? Yes, the health insurance
22 stays for the whole family. If you pay
23 additional, like I have the old GHI, so there's
24 no additional payment, but if you have a
25 different kind of health plan where you pay, you

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2 have to make arrangements with that insurance
3 provider to pay for that additional money.

4 Alright?

5 This is I'm currently pregnant, 26 weeks.
6 I'm wondering if I'll be able to take a
7 childcare leave after September 5th, if I'm not
8 vaccinated? The answer to that is no. The
9 reason that you can't—well, you can take
10 childcare leave, yes. You can't take parental
11 leave. Excuse me. Because, there's a provision
12 in the parental leave agreement that obviously
13 came well before the unpaid leave, and we tried
14 to overcome this in the arguments in the
15 arbitration, but they ruled against us on this.
16 You have to be in active service prior to going
17 on the parental leave. One of the definitions
18 of active service is actually being on a
19 pregnancy-related leave. Like, if you're on
20 maternity disability, but this is not included—
21 the unpaid leave is not included, and it's one
22 of those pregnancy-related leaves. So, you
23 would not be in active service in the lead-up.

24 But, the question was childcare, and
25 absolutely, if you have a child that's under—

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2 that won't turn five until after the following
3 September, basically let's say if you have a
4 child under the age of five, to keep it simple,
5 then you can apply for childcare leave. You can
6 do that in the springtime for September of 2022.
7 There's no problem with that.

8 Alright, this one is for somebody who has a
9 condition and can't take—they say they can't
10 take the vaccination. I assume you applied for
11 the exemption, and that was denied. Sorry to
12 hear that, but if you want to get money from
13 your pension and severance, I think David was
14 already talking about that, but David, when you
15 say the folks who have these kinds of
16 circumstances, they probably want to speak to a
17 pension rep?

18 MR. KAMANSKY: Yes. I mean it's certainly a
19 good idea, if you have a specific question. Let
20 us know, just call the call center, tell them
21 that you have a specific question, tell them
22 what that question is, and then we can—the call
23 center can put them in touch with one of our
24 consultants who can answer that specific
25 question.

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2 MR. SILL: Thank you. The next one is just
3 why are we waiving our rights? I assume in this
4 context that's talking about like if you take
5 the severance agreement, why are you agreeing to
6 waive the right to bring suit later on? And, is
7 that legal? I'm not a lawyer, but I've seen
8 questions like this before. Sometimes, if you
9 go through 30-20A, and you reach a stipulation
10 of settlement, so you're not going to be
11 terminated via 30-20A, but you are going to
12 maybe pay a fine. There's usually boiler-plate
13 language that that says that you agree not to
14 file suit about the terms of that stipulation.
15 Same thing if you grieve, right? If you grieve,
16 and you're looking for \$5000 and they reach a
17 settlement for \$2500, you might be asked to
18 waive your right to bring a future suit. Right?

19 So, it's the same thing with the severance.
20 If you decide you want to take the severance,
21 then what you do is you're saying that you agree
22 not to bring suit. That's why I was saying
23 earlier, the terms of resignation for most
24 people, like non-severance agreement
25 resignation, are worse to the extent that you

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2 don't maintain your medical benefits through
3 September 5th, and you don't get paid out one-
4 for-one for your CAR dates. Right?

5 But, if a person were planning to bring
6 suit, they might want to resign or retire
7 without using the severance, because then you
8 wouldn't be signing off on that waiver.
9 Alright?

10 Do we lose our pension or TDA if we take the
11 severance?

12 MR. KAMANSKY: The short answer to that is
13 no. But, that presumes that you're invested.
14 Right? Depending on what tier you're in, or
15 actually when you enrolled in the plan with the
16 pension, it may be five years, it may be ten
17 years in order to get vesting in the pension
18 plan. If you are vested and you can check on
19 the TRS website and look and see how many years
20 they have for you and determine whether or not
21 you're vested, as long as you're vested, you're
22 good to go. You can—your TDA, your pension will
23 be waiting for you when you're age eligible to
24 retire.

25 If you're not vested, you have seven years

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1 from the day you leave to do one of a couple
2 things. One is come back. So, you could, six
3 years from now, come back to New York City
4 Department of Ed, if that's possible, and work
5 again, and then restart from where you left off.
6 If you're not vested and you get a job for
7 another New York City or New York State
8 employer, public employer, who participates in
9 one of the city or state retirement plans,
10 within that seven-year period you can transfer
11 that service from New York City Teacher's
12 Retirement System to the new public plan in New
13 York City or New York State that you're a part
14 of.
15

16 If you work outside the state and join
17 another public plan in New Jersey or somewhere
18 else, their rules are completely different, and
19 so you would have to find out from them what
20 that story is.

21 Now, if you don't come back to the DOE in
22 that seven-year period, or you don't join
23 another New York City or New York State
24 retirement system in that seven-year period,
25 then your membership in the Teacher's Retirement

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2 System ends, and they will contact you to remove
3 from TRS your pension contributions and your TDA
4 contributions, and you will have to basically
5 cash in.

6 MR. SILL: Alright. Another question, is
7 the union going to fight for testing for us, or
8 is that over? So, we've been fighting for
9 testing in a number of contexts going back to
10 last year. If you recall, we were on the verge
11 of going on strike because there wasn't going to
12 be enough testing in the schools. I really
13 think that the UFT and our members really
14 deserve credit, not only for preventing the
15 spread of COVID in the schools, but preventing,
16 to a certain extent, spread of COVID in New York
17 City, because there were so many people who got
18 tested in their schools last year and found out
19 they had COVID before they were symptomatic,
20 and, therefore, quarantined and didn't pass
21 COVID on to some other group of people.

22 Now, in the context of the vaccine mandate,
23 that's certainly an argument that we made in
24 court. That's an argument that we've been
25 making, that there should be a testing option.

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1 We lost. I don't know what will happen in the
2 future. There are cases that are still alive, I
3 think as Mulgrew was talking about earlier, but
4 I don't know whether or not we'll be party to
5 that.
6

7 If we're tenured, so if you're tenured,
8 right, you have--what tenure gives you is due
9 process in the case of termination. Alright?
10 The DOE cannot, in the vast majority of
11 circumstances, terminate a tenured pedagogue
12 without going through 30-20A. You go before an
13 arbitrator, and the DOE makes the case that the
14 teacher was either incompetent or that they did
15 something that warranted termination.

16 Obviously, if you decide to take the
17 severance agreement, you are waiving those 30-
18 20A rights in exchange for the years' worth of
19 the health benefits and the one-for-one CAR day
20 payout. Alright?

21 But, again, if a person is more interested
22 in maintaining those rights and going through
23 30-20A than they are in maintaining the medical
24 benefits and getting the one-for-one pay, they
25 might just do nothing. Right? Don't take the

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2 severance, don't agree to extend the leave, but
3 I want to be clear here, I'm not saying that—we
4 don't know what will happen in those cases.

5 Alright?

6 This is I'm pregnant in my second trimester,
7 I'd like to get vaccinated after I give birth.
8 Would I still qualify for maternity or paid
9 parental leave? You'd qualify for maternity
10 leave. But, again, because you spent this time
11 on the unpaid leave of absence, and you're not
12 impacted status for the purposes of paid
13 parental leave, you wouldn't be eligible for
14 that. Alright?

15 So, what if someone got the first shot
16 because of this requirement, but had an adverse
17 reaction and now refuses to take the second
18 shot? Can they still apply for severance, as
19 I'm dead set on not getting, uploading the
20 second dose? So, this is a very complicated
21 question, because of developments just today.
22 Alright? So, by the arbitration, a person who
23 has received one shot is eligible to continue
24 working. They should not be placed on the
25 unpaid leave of absence, and that is true for at

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2 least 45 days. Alright? It's debatable about
3 the interpretation of the arbitration, but
4 that's how the DOE is interpreting it. So, a
5 person who has one shot could stay on payroll
6 for the next 45 days. Alright?

7 Now, what happened today, and I guess for
8 some people yesterday, we started to find out
9 about it today, was that people got emailed by
10 the Department of Ed, that because they had one
11 shot that they were eligible and they should
12 return to work. Some of these folks did not
13 upload their documentation in to the vaccine
14 portal. We even have people who are fully
15 vaccinated, but for one reason or another did
16 not upload their proof of vaccination. Alright?
17 So, we are examining our options here, because
18 those people also got emails. I guess the DOE
19 found out from looking at like city registry or
20 whatever, so we're examining our options as far
21 as that goes, and there will be more information
22 on that in the coming days.

23 But, I say all that in trying to answer this
24 question, because whether or not you can apply
25 for the severance, if you're on the unpaid leave

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2 of absence, kind of depends on whether or not,
3 like where you fall within those circumstances.
4 You got the letter saying you got one shot, and
5 you can return. Or, we found out that you're
6 vaccinated, and we plan to fight for the people
7 who did not upload their documentation. I'll
8 say that.

9 Since it's a non-disciplinary resignation, I
10 was told a 30-day notice does not apply. I want
11 to confirm this. Yes, I'm confirming that.
12 when you go in to Solace, if you select the
13 Separation agreement, that's the resignation
14 with special circumstances. Then, you'll be
15 able to select the effective date of the
16 resignation. It doesn't have to be 30-days'
17 notice.

18 This one says I've requested a retirement
19 consultation, but haven't been contacted. What
20 are my options? I mean I think I'll say, before
21 turning it over to David, that there's a lot of
22 people, more than typical for a two-week period,
23 reaching out about this kind of thing. But,
24 David, do you have any advice for them?

25 MR. KAMANSKY: Yes. I mean normally

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2 September in to early October is a busy month,
3 because people—we normally don't do
4 consultations over the summer, so people who
5 kind of want a preliminary and such all kind of
6 file in when September starts, and we're getting
7 our legs underneath us. So, with the
8 possibility of the severance package and the
9 possibility of the vaccine mandate, it's been
10 even more. So, we're wading our way through
11 that list of people to make sure that we can get
12 to the people who absolutely, positively need a
13 final, because they're taking the severance
14 package, for example. If you're taking the
15 leave, and you're going to be on that leave for
16 let's say the next year, there's no rush in
17 getting a preliminary consultation. We'll have
18 more than enough time to get you a consultation.
19 But, if you are taking the severance package,
20 when you call to make an appointment, let them
21 know you're taking the severance package, that
22 you're going to need to get some sort of
23 definitive consultation before the end of the
24 month, and so that way we can make sure to try
25 to schedule you and get you in as soon as

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1 possible. We don't want anybody retiring
2 without all the information.
3

4 MR. SILL: Thank you. The next one,
5 originally was stated and redocumented as
6 voluntary. How is the leave considered
7 voluntary? I think what this question is asking
8 is the severance results in a resignation that
9 is considered non-disciplinary and involuntary.
10 As I said before, those are circumstances that
11 typically allow a person to collect
12 unemployment. If the leave is considered a
13 voluntary resignation, and there's really no way
14 to answer that other than to say that that's
15 what the arbitrator decided. We were pushing
16 for the involuntary resignation in both
17 circumstances, because we wanted people to be
18 able to collect unemployment, if that's what
19 they needed, but that's the decision that we
20 got.

21 Are we supposed to be taken off payroll
22 while awaiting a hearing? I imagine that means
23 like you apply for the exemption. The exemption
24 was denied, and you appealed, and you have not
25 yet had a decision on the appeal or a hearing on

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1 the appeal. No, you should not be taken off
2 while you're waiting for that hearing. Alright?
3 Again, sometimes that's an issue of timing.
4 Just a lot of people who applied for the appeal
5 late. In order to get an appeal, first of all,
6 you had to have applied for the exemption or the
7 accommodation by the deadline, which was
8 September 20th, 2021, but there were some people
9 who did that and, for whatever reason, didn't
10 get an answer from the DOE for a while, or they
11 were denied their right to appeal, and there was
12 some kind of technological problem that would
13 have prevented them from applying by the
14 deadline or what have you, so they applied after
15 the deadline, but still had access to the
16 appeal, and the appeal is still pending. Those
17 people should not be taken off payroll. You may
18 have gotten an email because of the timing,
19 alright, where the system did not show that you
20 had a pending appeal at the time that they
21 generated the list for the email.

22
23 This one says I'll be in my third trimester
24 in six weeks, can I take my maternity at that
25 time? No. Unfortunately, you had to have been

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2 in your third trimester as of September 27th, and
3 then that got pushed back to October 4th, as a
4 result of the mandate being pushed back by the
5 temporary restraining order. We wanted the
6 early parental leave for anybody who was
7 pregnant, but the arbitrator decided on the last
8 trimester.

9 I'm having trouble taking my third trimester
10 leave. I applied on 10-1. I was sent a remove
11 from payroll email by DOE. I'm also having
12 trouble with the third trimester leave on
13 Solace. It's not recognizing information I
14 provided. Asking for proof of birth. Okay, so
15 there's a couple of things here. One I already
16 talked about. If you applied on 10-1, I'm not
17 surprised that you got the leave without pay
18 email, because you made that application on
19 Friday, and the email was generated on Saturday.
20 The people who apply for the third trimester
21 leaves, they're getting this kind of crazy email
22 saying you're denied because you have not
23 provided proof of birth. Well, of course you
24 haven't provided proof of birth. You're still
25 pregnant. Right? That just typifies DOE's way

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1 of doing things better than that nonsense. But,
2 what you do then, I'll ask you to resubmit
3 documentation at that point, and when you get
4 that, if you just resubmit the only
5 documentation you need to take your third
6 trimester leave, which is a note from your
7 doctor saying that your due date is between now
8 and January 4th, and then the leave should go
9 through. If you have continued problems, just
10 call 212-331-6311, and ask to speak with a leave
11 representative. Okay?

12
13 So, how will both the leave and the
14 severances affect TDA and TRS? I think we
15 already talked about that. I don't know if
16 there's anything more to be said, David, about
17 like the difference between the severance and
18 the leave, but I don't think so. But, just in
19 case.

20 MR. KAMANSKY: I mean, generally speaking,
21 the only thing that we were talking about before
22 is depending on what tier you're in, leaving
23 service completely and being on a leave have
24 different implications. It depends on what tier
25 you're in and whether the leave is paid or

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2 unpaid and stuff like that. So, if, generally
3 speaking, as long as you're eligible, as long as
4 you're vested, and you're age eligible, and you
5 have the years to retire, you should be fine.

6 MR. SILL: Next one is I applied for
7 restoration to health leave on Saturday with a
8 doctor's notice. Is it possible to get
9 approved, since I applied before Monday, 10-4?
10 Yes. As a matter of fact, if somebody has a
11 health condition that would get them approved
12 for restoration of health leave, they could
13 apply now, retroactive to their first
14 consecutive absence. It happens all the time,
15 that people go out for some unforeseen medical
16 event, and apply after the fact, sometimes well
17 after the fact. While I don't advise that,
18 because it can cause problems with your pay, it
19 really causes problems. Like, if God forbid,
20 somebody has an accident and ends up in the
21 hospital, the last thing they're thinking about
22 is applying for a restoration of health leave on
23 Solace. Right? So, if you have a health
24 condition that prevents you from going to work,
25 you could apply for that now, retroactive to the

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2 first consecutive absence that would ideally be
3 before Monday, but if not, then it's starting
4 with Monday, and as long as the documentation is
5 on point, then you could be approved, even
6 applying now, and certainly having applied on
7 Saturday.

8 Here's one I definitely don't know, David.
9 Can you apply for retirement health benefits
10 while getting benefits that we will be getting
11 temporarily, and can a retiree transfer to
12 retirement health benefits?

13 MR. KAMANSKY: The simplest answer I can
14 give you is that when you apply for retirement,
15 so let's say on the leave or I choose to take
16 the severance, or whatever the case may be, and
17 six months from now I am eligible and can and do
18 retire. At that moment in time, I should be
19 submitting to the DOE my documentation to move
20 from whatever health plan the DOE has allowed me
21 to stay on while I'm on that leave to the
22 retiree health plan, since I am now retired.

23 MR. SILL: Thank you. How is the severance
24 paid out? It's a one-time payment. We don't
25 have a date for that payment, but it's supposed

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2 to be in fairly short order. Of course, that's
3 fairly short order according to the DOE. But,
4 after you apply for the severance.

5 What will happen to my CAR dates over 100 if
6 I retire? Do they get paid out two for one?
7 Yes. Alright. The 100 get removed. You get
8 paid for those. But, you maintain the days that
9 you have in your bank beyond that and can apply
10 for termination pay. I think I said this
11 earlier, but I should have if I didn't, but
12 those additional days get paid out over three
13 payments, like traditional termination pay.
14 Alright?

15 What is the cut-off date to get vaccinated
16 and work this school year? I've been saying
17 this, as soon as in practicable. You have to be
18 returned to your school or work site as soon as
19 is practicable, but in no case more than seven
20 days. After November 30th, that changes. Okay?
21 After November 30th, as soon as is practicable or
22 within 14 days. Alright? So, I think the
23 school year ends—the 2021-2022 school year ends
24 on June 28th. So, if you wanted to work one day
25 this school year, you would have to upload proof

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1 of vaccination at the latest June 14th. I answer
2 it that way, even though I know somebody's
3 asking, and I guess if there's like a drop dead
4 date for getting vaccinated, afterwards you're
5 out of luck. There's not. Alright? You can
6 get vaccinated at any point and return to your
7 school as soon as is practicable, with the top
8 amount is seven days until November 30th and 14
9 days after that.
10

11 Can I go on Solace and request to extend my
12 accommodation? I don't really know what that
13 question is referring to, so you might want to
14 give us a call, but if that's someone who got a
15 temporary exemption, because either you're in
16 the quarantine period from COVID or you received
17 treatment with monoclonal antibodies and can't
18 be vaccinated for 90 days following that
19 treatment, then, yes, you can go in Solace and
20 request an extension to your accommodation. I
21 just don't know specifically what's intended by
22 that question. So, that's the best I can do to
23 answer that.

24 Is there a way to appeal denials? There's
25 no contractual way to dispute/appeal the

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1 denials. We've never had exemptions before,
2 like this anyway. We've had accommodations
3 before. People can apply for accommodations for
4 things as mundane as like not walking up the
5 stairs. If you have some kind of issue that
6 prevents you from walking up the stairs, you
7 could apply for an accommodation for first floor
8 classroom or for an elevator key, if there's an
9 elevator in the school building. We've always
10 had those kinds of accommodations, and there's
11 never been an appeal. There's no medical
12 arbitration for medical accommodations. What
13 you do if an accommodation is denied is you re-
14 apply. You re-apply with additional
15 documentation, and in this case, now that the
16 deadline has passed for the initial application,
17 if you had applied before the deadline, you
18 would have the appeal process. This person's
19 already been denied the appeal, it sounds like,
20 and so now that would be your recourse is to
21 apply with additional documentation.

23 Can I use the rest of my CAR days and the
24 paid parental leave and the maternity
25 disability, can I choose to go on unpaid leave

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1 after all of that? I was told I would
2 automatically go on childcare leave? Well, no,
3 if you applied for parental leave, and you put
4 as part of that application that you're not
5 returning to school year, right, that's going to
6 calculate your days as maternity disability,
7 followed by parental leave, followed by
8 childcare leave. Alright? But, if you were to
9 put in to Solace that you wanted to take
10 maternity disability, then parental leave, and
11 return this school year, and your return date is
12 coming up, and I think I said this earlier, but
13 just to repeat, and you have not yet uploaded
14 proof of vaccination, then rather than returning
15 on your return date, you're going to be placed
16 on the leave without pay at that time. I cannot
17 tell you, like this was something we had a real
18 problem with in terms of the arbitration,
19 because people who were on childcare leave were
20 going to have worse circumstance than people who
21 were on leave without pay. Right? Because,
22 people who were on childcare leave don't get
23 medical benefits. Right? At least once they're
24 FMLA period is over. So, that didn't really
25

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1
2 make much sense, but that's what the arbitrator
3 ordered. The idea was, well, because the people
4 are being placed on the leave without pay are
5 basically giving up their due process rights
6 eventually if they don't get vaccinated or the
7 order is not lifted, then they should have the
8 medical benefits. So, if that's something that
9 you're looking at, trying to maintain the
10 medical benefits, and you're against being
11 vaccinated, then that would be the way to do it.
12 Of course, I don't know how to weigh out that
13 decision if your plan was to be vaccinated once
14 you give birth.

15 On this unpaid leave, since we're removed
16 off payroll and not paying union dues, what
17 happens to our dental, eye care, or prescription
18 benefits? You can maintain your union
19 membership while you're on an unpaid leave of
20 absence, and it's not just for this unpaid
21 leave. It's any unpaid leave. All you have to
22 do is send a \$25 check, that's for the entire
23 year, to the UFT accounting department. You
24 don't really need to do anything more than that,
25 because it's not like people are writing \$25

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2 checks to the UFT accounting department all the
3 time, as long as your identifying information is
4 on that check, your membership will be
5 maintained, even while you're on unpaid leave.

6 This comment here, and it's strict mandate,
7 it's only in New York City. The rest of the
8 state is shot or weekly testing? Right. It's
9 the mayor who made this order. You know? And,
10 we contested the mayor's ability to make that
11 order in court, and we lost, and that wasn't
12 completely—that wasn't something that was
13 totally unexpected. I'm not a lawyer, but the
14 case law on vaccination mandates has been that
15 executives do have the ability to make them.
16 So, that's what happened here.

17 Can you get unemployment if you take the
18 severance package? I mean I alluded to this
19 before. I can't guarantee anybody that they're
20 going to get unemployment. Alright? That's a
21 Department of Labor decision. But, the
22 conditions are in place that typically result in
23 unemployment being approved. It's an
24 involuntary resignation, and it's not
25 disciplinary.

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2 If I use my teacher's choice money, how can
3 I be reimbursed this year? You can submit
4 receipts to your payroll secretary. I can tell
5 you that typically a person who is off payroll
6 in November does not get teacher's choice money.
7 And, every year, we look at one-off cases, and
8 we advocate for people with the DOE, like if
9 they just went off payroll, or they return just
10 after the pay was made, and they'll typically
11 allow for that. I can tell you now that I will
12 fight for teacher's choice monies for people who
13 are placed on the unpaid leave. I can't
14 guarantee it, because typically, the person
15 would not get that money. Alright.

16 So, that one we already answered. That one
17 we already answered.

18 How does being on leave without pay impact
19 accessing money for loans from our pension fund,
20 which in this case is BERS (phonetic), somebody
21 said. Can we borrow while we are unemployed?

22 MR. KAMANSKY: That's a great question.
23 There are specific rules, depending on which
24 plan you're in. When I say plan, I mean which
25 retirement system you're in. So, there's TRS

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2 for most of our members, and BERS for some.
3 They're rather arcane, so I would definitely
4 recommend that you to go either the TSR website
5 and read their long documentation or the BERS
6 site and read their long documentation. The
7 kind of-again, I'm going to try to give like a
8 simple catch-all explanation that should cover
9 both, but don't take my word for it exactly. I
10 definitely want you to go to the website and get
11 the specific information, because there are
12 detailed documents.

13 The simplest way to say it is that if you
14 have an out-first of all, if you have an
15 outstanding loan, for TRS my understanding is if
16 you're on a leave, and you're on an unpaid
17 leave, you automatically qualify for what they
18 refer to as a 12-month grace period, meaning
19 that there's a 12-month period in which you do
20 not have to pay off that loan. You can choose
21 not to. Now, that's not necessarily a gift,
22 because interest will accrue during that time,
23 right? So, if you are not working, and you're
24 having a hard time paying off a loan now, adding
25 additional interest to it may not exactly make

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1
2 your life easier a year from now. But, it is an
3 option, if you need a temporary solution.

4 You can not take a grace period and work out
5 just with the Teacher's Retirement System or
6 with BERS paying that loan off while on leave,
7 just individually from your bank account. You
8 would have to reach out to them, and you would
9 have to arrange for them a payment plan so that
10 they know that you're paying this off, and you
11 have some sort of schedule to deal with.

12 If you don't pay off that—if you don't make
13 regular loan payments, either after the grace
14 period or if you are resigned, so let's say you
15 take the severance package, and you're no longer
16 an employee, because you're not on leave, you've
17 ended your service, that changes the rules
18 completely, because then you will have to
19 arrange for pretty much an immediate pay out or
20 work some sort of payment plan out with the
21 retirement system.

22 If you don't make a payment over a certain
23 period of time, for BERS I think it's 90 days,
24 for TRS I think it's 30, but, again, please
25 there are so many little ins and outs, don't

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2 take my word for it. Go to the website and
3 check it out.

4 But, regardless, if there's a period of
5 time where you don't make any payments, then
6 your loans go in to default, which is something
7 that is a tax consequence. So, you're going to
8 have to pay taxes on the amount of money that
9 you haven't paid off on those loans, and it may
10 or may not affect your pension benefits when you
11 do retire. So, it's a very slippery slope.
12 Don't just assume that because you're not
13 working that your loans magically disappear.
14 They're still outstanding. You still need to
15 pay them off, and you should definitely reach
16 out to the retirement system with which you have
17 your loans to either arrange for payment or get
18 your questions answered specifically about how
19 to pay those loans back.

20 MR. SILL: Thank you. This says my
21 principal stated that if and when I get
22 vaccinated, I cannot return back to my home
23 school. Well, I know this is going to come as a
24 surprise, but your principal is wrong. Alright?
25 Now, I suppose the principle is true, if you

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1
2 take the severance package. If you take the
3 severance, then you have to find a position.
4 You're not guaranteed to return to your school.
5 But, if you're on the unpaid leave, I'm going to
6 read directly from the arbitration now,
7 employees who become vaccinated while on such a
8 leave without pay and provide appropriate
9 documentation to the DOE shall have a right of
10 return to the same school as soon as is
11 practicable, but in no case more than one week
12 following notice and submission of documentation
13 to the DOE. Alright? Later, there's another
14 line about what happens after November 30th, but
15 the only difference is that it's up to 14 days.
16 Alright? But, if you're on a leave, and then
17 you get vaccinated, you return to your same
18 school.

19 Alright, how do we get paid for COVID tests
20 that we've got to do on our own time? You
21 submit the documentation and when you got that
22 test to your payroll secretary, and they can pay
23 you the hour of procession.

24 - - asks the question, what happens to the
25 things that come out of my checks? You need to

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1
2 make arrangements. Like, if you're paying loans
3 directly out of your checks, similar to what
4 David was saying earlier, you need to make
5 arrangements with your creditors to pay those
6 directly.

7 Will you UFT consider people who have
8 natural immunity and grant an accommodation or
9 an exemption? We don't grant those. We went to
10 bat for those folks, but it's not up to us to
11 grant accommodations or exemptions. The DOE
12 didn't want to have any exemptions, religious,
13 medical at all. That's why we went to the
14 arbitration. But, there is, at the moment, no
15 exemption that is approved for people who have
16 natural immunity. Now, there is a temporary
17 exemption for people who were treated with
18 monoclonal antibodies, but that's a different
19 thing. That's an exemption. There is no
20 exemption because somebody had COVID, and they
21 have antibodies in that way.

22 What was the number that I gave earlier?
23 212-331-6311.

24 You do keep your welfare fund coverage.

25 Can we still apply for medical exemptions?

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1
2 Yes, you can, but because it's after the
3 deadline, you don't have the ability to appeal,
4 but you can still apply.

5 I'm owed my last lump sum payment, and don't
6 plan on returning to DOE, when will I receive
7 the money? If you don't return to the DOE, you
8 won't receive the money. Alright? People who
9 are on a leave of absence, and therefore miss
10 the lump sum payment, need to return to active
11 service, without any resignation or termination
12 in the meantime. They have to return to active
13 service from a leave of absence by October 1st,
14 2023 in order to get any lump sum payments that
15 they missed. If you don't do that, you're not
16 going to get it.

17 What happens if we don't choose either
18 option? You'll be brought up on—if you're a
19 tenured pedagogue, you'll be brought up on 30-
20 20A charges. If not, the DOE will pursue
21 disciplinary charges, which for an untenured
22 pedagogue could mean discontinuance. For like a
23 paraprofessional or an administrative employee,
24 could termination.

25 Can you freeze your pension if you are not

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vested?

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MR. KAMANSKY: That goes back to the answer I gave earlier. If you're not vested, you have that seven-year window to either come back, take the money out, or get another job in a New York City or New York State public employer that has a public pension and transfer the time in to there. But, freezing it, I mean basically what it does is it stays frozen, kind of for those seven years. It stays where it is for those seven years, to give you the opportunity to find other work, coordinate different choices, other choices, and if, at the end of that seven-year period, you haven't come back, you haven't gotten another job with New York City or New York State public employment, then you collect your TDA contributions plus interest, your pension contributions plus interest, and go along your merry way.

21

22

23

24

25

MR. SILL: If somebody has a low DI leave pending, should they be on the unpaid leave? If anybody has a leave pending, they should not be placed on an unpaid leave. Now, sometimes, LODI gets denied, right? But, when a LODI gets

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1 denied, you get placed on a restoration of
2 health leave. LODI for anybody who is not
3 familiar is a line of duty injury. So, if
4 you're hurt at work and you're approved for that
5 leave, but the LODI is denied, then the default
6 is a restoration of health leave, so even if the
7 LODI is denied, you should not be placed on the
8 unpaid leave.
9

10 Will the city dock us for teacher's choice?
11 They're not going to come and take the money,
12 but as I said before, they might not give you
13 the money. We will fight for that. Don't know
14 what the outcome will be.

15 If we return to the DOE, do we remain
16 tenured and keep our accumulated years?
17 Alright, the answer is yes, but the
18 circumstances impact how that happens. So, if
19 you just come back from the leave of absence,
20 and you never separate from the DOE, then you
21 don't lose tenure, and you certainly don't lose
22 your accumulated years, either for the purpose
23 of seniority or for salary, any of that. If
24 you resign, and then you return, upon your
25 return, you have to fill out a form, which is a

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1 withdrawal of resignation form. As long as you
2 do that within five years, you will maintain the
3 tenure that you had at the time of your
4 resignation, and you will have all of your
5 accumulated seniority.
6

7 This question, does getting put on a leave
8 disqualify one from getting unemployment
9 benefits? I know there was some confusion with
10 the original email that went out after the
11 arbitration came down. You can't get
12 unemployment when you're employed. If you're on
13 a leave, that means you're employed, so there's
14 no unemployment while you're on a leave of
15 absence. If you get the severance, as we've
16 said a few times now, you could.

17 I've been diagnosed with COVID as of
18 Tuesday, can I remain on payroll? Well, I mean
19 that's a pretty specific situation. I think
20 you'd have to make the argument that you started
21 experiencing COVID-like symptoms prior to being
22 placed on the unpaid leave. Like, if you had-if
23 your idea was to get vaccinated over the
24 weekend, and then you had COVID-like symptoms,
25 and you went and got tested, or whatever, then

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2 in that case, you should never have been placed
3 on the unpaid leave. Even if you were placed on
4 the unpaid leave, and now, once you're
5 quarantine, if you get tested and it's positive,
6 and then your quarantine period ends, you could
7 get—you would have to get vaccinated after that
8 in order to return. Alright? Either way, it's
9 a temporary reprieve, right? Because, once the
10 quarantine period is over, you'd have to get
11 vaccinated or be put off payroll.

12 Since we're off payroll now, are we still
13 entitled to the emergency lesson procession
14 payment? Yes, if you already did that work,
15 teacher's choice, we already talked about.

16 How long does it take to get off of the
17 leave without pay list once you upload your
18 vaccination? Well, the way the DOE is doing it
19 right now, it won't take very much time at all.
20 Alright? Because, nobody, even though you got
21 the email about being on the leave without pay,
22 so far, all they're doing in the first few days
23 is they're just making payroll deductions, so
24 like basically docking you a day's pay for being
25 absent without authorization. So, it won't take

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1 long. They're doing it on purpose so it won't
2 take long to put somebody back. They don't need
3 to put you back on payroll, because you're
4 actually still on payroll. But, for how long
5 they're going to do that, it won't be too long.
6 So, if that's something you're thinking about
7 and you're worried about, the rigmarole of
8 getting placed back on payroll, the sooner the
9 better.
10

11 What if I develop a medical condition that
12 doesn't allow me to get vaccinated during the
13 leave or the severance, can I still apply for
14 the exemption? I don't know every single
15 permutation of that kind of circumstance, but I
16 think it would be very unlikely. Alright?
17 Because, I just think that the DOE is going to
18 see that as a pretty convenient description of
19 events, to say, oh, I was going to get it, but
20 then I got the condition. You know? Is it
21 possible that there's a circumstance in which
22 that would be possible? Maybe, yeah, but I
23 think that's going to be unlikely.

24 Alright, sabbatical, if somebody were on a
25 sabbatical, when you go on a sabbatical, you owe

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1 time to the DOE, same thing with parental leave,
2 if you were recently on a parental leave, you
3 owe time to the DOE. That's one of the
4 conditions of those leaves. With a sabbatical,
5 if you take parental leave, you have to return
6 for a year. If you take a six-month sabbatical,
7 you have to return for a year. If you take a
8 year-long sabbatical, you have to return for two
9 years. If you don't, then the DOE will charge.
10 They won't charge while you're on a leave of
11 absence, but if you leave the system, if you
12 resign, they will bill you for the money that
13 you received while you were on that leave of
14 absence. There are circumstances, generally for
15 humanitarian situations, like, God forbid,
16 somebody goes on a sabbatical for restoration of
17 health, and it's a restoration of health leave,
18 so the idea is time off is going to help you
19 restore your health and you're going to get
20 better, but then somebody doesn't get better,
21 they don't bill your estate, or what have you,
22 if, God forbid, somebody passes away. But,
23 whether or not you'd be able to get a waiver
24 from that service requirement because you were

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2 on a—you got terminated, or you resigned via the
3 severance or September 5th of next year, I don't
4 know at this point.

5 What are the possible negative impacts of
6 leaving the DOE other than losing our position
7 at the school? I mean that's pretty much it. I
8 think David spoke about people who aren't vested
9 in their pension yet. Nothing prevents you
10 from, as long as you are compliant with the
11 order in the future, returning to the DOE.
12 You're not guaranteed a position. You have to
13 get rehired, but this is non-disciplinary. But,
14 then again, nobody's entitled to a position.
15 So, that's the thing that you're rolling the
16 dice with. If you're a teacher who, you know,
17 for the sake of argument, you've been working
18 for X number of years, and you've got highly
19 effective and all of this kind of stuff, and
20 you've to these positive letters of
21 recommendation, then there probably isn't much
22 risk. You probably can return to the DOE.

23 On the other hand, if you've had kind of
24 like a different kind of service history, and
25 there's been disciplinary issues or negative

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1 ratings, it might be hard to get to be rehired
2 back. I mean that's the risk you run.
3

4 I'm resigning and would like to know if
5 it'll affect my retirement? That's kind of a
6 specific question. David, I don't know if you
7 want to do that, but could maybe do one. I
8 don't know. It's up to you. I'm 61, invested,
9 can I collect my pension now? Can I defer when
10 I'm 62, so I get 100%?

11 MR. KAMANSKY: The answer to both of those
12 is yes. If you are eligible to retire, or you
13 have the minimum amount of years to be vested,
14 and you're in the regular tier 4 plan, you can
15 retire at 61. And, depending on what plan
16 you're in and the number of years of service you
17 have, you could collect a slightly reduced
18 pension at 61, or you could wait until 62 and
19 collect a full pension. It's really an option
20 that you have, and without knowing all the
21 specific details about you and your finances and
22 stuff like that, I wouldn't be able to
23 necessarily comment on whether it's better to do
24 one over the other.

25 MR. SILL: So, it's 5:30 now. I think we

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2 were originally supposed to go to 5:00, so we'll
3 take a few more, and then if, unfortunately,
4 your question didn't get answered here today,
5 then you can follow up by giving us a call.

6 Can you resign anytime during the leave?
7 Yeah, you can resign anytime during the leave,
8 but you can only get the severance agreement if
9 you decide to do that before October 30th.

10 Absence for F status employees, so we argued
11 for F status employees in the arbitration, and
12 they did not allow for the leave for F status
13 employees. Okay? So, for them, if you want to
14 work for the DOE, you have to be compliant with
15 the order. That's the only option.

16 I have a temporary medical exemption until
17 10-31. Can I begin my paid parental leave, the
18 third trimester leave, then? It depends. If
19 you applied—hang on one second. Yes, you can.
20 I couldn't quite remember. I'm reading the
21 arbitration here. As long as you were in your
22 third trimester, the order says September 27th,
23 but then it did get pushed back to October 4th,
24 which is the date in which the order went in to
25 effect, as long as you were in your third

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2 trimester as of Monday, then you could start
3 your paid parental leave. You want to make sure
4 you apply. Now that the exemption has been
5 approved, you ought to be able to make that
6 application in Solace.

7 I just got down to the end of the questions
8 that were pulled out of the Q&A, so we're going
9 to go ahead and wrap this up. If you have
10 questions, I know that in the last--like last
11 week, for example, that number that I gave you,
12 212-331-6311, they got overrun. That was the
13 first time that that has happened. And, things
14 have kind of returned to normal here this week.
15 So, if you feel like last week you were calling,
16 and you weren't getting any answer, I don't want
17 that to be a deterrent to reaching out now.
18 With everything that was going on, it was just
19 we had a ton of calls. So, now, we were
20 handling the calls that were coming in today and
21 yesterday and so on, so if you didn't get an
22 answer to your question today, I apologize for
23 that, but please do reach out, 212-331-6311.

24 I wish everyone good luck, and have a great
25 night.

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[END UFT Meeting on LWOP.mp3]

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C E R T I F I C A T E

I, Colleen E. Daughenbaugh, certify that the foregoing transcript of UFT Meeting on LWOP was prepared using standard electronic transcription equipment and is a true and accurate record to the best of my ability. I further certify that I am not connected by blood, marriage, or employment with any of the parties herein nor interested directly or indirectly in the matter transcribed.

Colleen Daughenbaugh

Signature:

Date: June 7, 2023