

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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In the Matter of

14100538

MICHAEL P. THOMAS,

Petitioner,

NOTICE OF PETITION

For an Order and Judgment Pursuant to Article 78 of the  
Civil Practice Law and Rules,

Index No.

-against-

NEW YORK CITY DEPARTMENT OF EDUCATION,  
and CARMEN FARIÑA, Chancellor of the New York  
City Department of Education,

Respondents.  
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**FILED**  
MAY 19 2014  
COUNTY CLERK'S OFFICE  
NEW YORK

**PLEASE TAKE NOTICE** that upon the annexed petition, verified on May 17, 2014, and the exhibits annexed thereto, petitioner will make an application at the New York County Courthouse, located at 60 Centre Street, County of New York, State of New York, in the Motion Support Courtroom, Room 130, on June 27, 2014 at 9:30 a.m., or as soon thereafter as counsel can be heard, for an order and judgment, pursuant to Article 78 of the New York Civil Practice Law and Rules: (1) declaring that a School Leadership Team meeting is a meeting of a public body which must be open to the general public pursuant to the Open Meetings Law; (2) finding that Respondents violated the Open Meetings Law; (3) ordering Respondents to participate in a training session concerning the obligations imposed by the Open Meetings Law conducted by the staff of the Committee on Open Government pursuant to Public Officers Law § 107(1); and (4) awarding costs, fees, and disbursements, together with such other and further relief as may be just and proper; and

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**PLEASE TAKE FURTHER NOTICE** that, pursuant to CPLR § 7804(c), answering papers, if any, shall be served at least five (5) days prior to the return date of the instant proceeding.

Dated: New York, New York  
May 17, 2014

Respectfully submitted,

Michael P. Thomas

Michael P. Thomas  
Petitioner, *pro se*  
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michaelpthomas@hotmail.com

To:

New York City Department of Education  
52 Chambers Street  
New York, New York 10007

Hon. Carmen Fariña  
Chancellor  
New York City Department of Education  
52 Chambers Street  
New York, New York 10007

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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In the Matter of

MICHAEL P. THOMAS,

Petitioner,

Index No. 100538 / 14

For an Order and Judgment Pursuant to Article 78 of the  
Civil Practice Law and Rules,

**VERIFIED PETITION**

-against-

NEW YORK CITY DEPARTMENT OF EDUCATION,  
and CARMEN FARIÑA, Chancellor of the New York  
City Department of Education,

Respondents.

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**FILED**  
MAY 19 2014  
COUNTY CLERK'S OFFICE  
NEW YORK

Petitioner Michael P. Thomas, as and for his Verified Petition, respectfully alleges  
and states the following:

**PARTIES**

1. Petitioner Michael P. Thomas ("petitioner") is a resident of New York City and was employed by the New York City Department of Education as a mathematics teacher at Manhattan Center for Science and Mathematics from September, 1989 to July 1, 2012, the effective date of his retirement from the New York City Department of Education.

2. Respondent New York City Department of Education ("DOE") is a school board organized under and existing pursuant to the Education Law of the State of New York.

3. Respondent Carmen Fariña is the Chancellor of the New York City Department of Education and is responsible for the operation of the DOE and its compliance with applicable law and regulations, including compliance with the Open Meetings Law and the Education Law.



### **NATURE OF PROCEEDING**

4. This is a proceeding brought pursuant to Article 78 of the CPLR challenging the determination of Respondents that School Leadership Team (“SLT”) meetings are not open to the general public as required by the Open Meetings Law. An email from Victoria Trombetta, SLT Chairperson, prohibiting petitioner from attending SLT meetings at Intermediate School 49 Berta A. Dreyfus is annexed hereto as Exhibit “A.”

5. Petitioner asserts that the determination prohibiting the general public from attending SLT meetings is an error of law.

### **VENUE**

6. Pursuant to CPLR §§ 7804(b) and 506(b), venue in this proceeding lies in New York County, in the judicial district where the principal office of Respondents is located.

### **STATEMENT OF FACTS**

7. Chancellor’s Regulation A-655 provides for the formation of a School Leadership Team (“SLT”) in every New York City public school to ensure compliance with state and federal law and regulations concerning school-based management and shared decision-making. A copy of Chancellor’s Regulation A-655 is annexed hereto as Exhibit “B.” The SLT is composed of parents, teachers, and administrators who are responsible for developing school-based educational policies, set forth in the school’s Comprehensive Educational Plan (“CEP”), and ensuring that resources are aligned to implement those policies. *See* Chancellor’s Regulation A-655, Verified Pet., Ex. “B.”

8. The three mandatory members of the SLT are the school’s principal, the Parent Association/Parent-Teacher Association President, and the United Federation of Teachers



Chapter Leader, or their designees. *See* Chancellor's Regulation A-655(III)(B), Verified Pet., Ex. "B" at 2. Once the team is constituted, the SLT selects a Chairperson or Co-Chairpersons from its membership. *See* Chancellor's Regulation A-655(III)(D)(1), Verified Pet., Ex. "B" at 4.

9. SLTs meet at least once a month during the school year, and meetings must take place on school or DOE premises. *See* Chancellor's Regulation A-655(VII), Verified Pet., Ex. "B" at 7.

10. On or about March 17, 2014, petitioner requested permission from the SLT Chairperson and the three mandatory members of the SLT to attend the next meeting of the SLT at Intermediate School 49 Berta A. Dreyfus ("I.S. 49"), a middle school located in Staten Island. Copies of letters to the SLT Chairperson and mandatory members of the SLT from petitioner are annexed hereto as Exhibit "C."

11. In an email dated March 18, 2014, the SLT Chairperson, Victoria Trombetta, invited petitioner to attend the SLT meeting on April 1, 2014 at 4:00 p.m. A copy of the email is annexed hereto as Exhibit "D."

12. The next day, however, the SLT Chairperson informed petitioner by email that he would not be permitted to attend the SLT meeting. *See* Verified Pet., Ex. "A." According to the SLT Chairperson, the SLT by-laws of I.S. 49 specifically state that only members of the school community may attend SLT meetings. *See id.* Petitioner – who is not a parent, teacher or administrator of I.S. 49 – is therefore not allowed to attend SLT meetings at the school.

13. On April 1, 2014 at approximately 3:50 p.m., petitioner entered I.S. 49 and informed School Safety Agent ("SSA") Meyer, SSA Wall, and SSA Villacis that he wanted to observe the SLT meeting. Petitioner also informed the school safety agents that he was not a



member of the school community, and requested that they obtain authorization before allowing him to attend the meeting.

14. SSA Villacis contacted Linda Hill, Principal of I.S. 49, and she prohibited petitioner from attending the SLT meeting because he was not a member of the school community. Petitioner immediately left the school building.

### **CAUSE OF ACTION**

15. Petitioner repeats and realleges the allegations set forth in Paragraphs 1 through 14 as if set forth herein.

16. Pursuant to Public Officers Law § 102, a “public body” is any entity, for which a quorum is required in order to conduct public business and which consists of two or more members, performing a governmental function for the state or for an agency or department thereof. A “meeting” is defined by the section as the official convening of a public body for the purpose of conducting public business. *See* Public Officers Law § 102(1).

17. Public Officers Law § 103 provides that every meeting of a public body shall be open to the general public.

18. As explained below, an SLT is a public body since 1) it performs a governmental function for the state or for an agency or department thereof; 2) it conducts public business; 3) it consists of two or more members; and 4) a quorum is required in order to conduct public business.

19. First, the SLT performs a governmental function for the DOE. Chancellor’s Regulation A-655 provides that there must be an SLT in every New York City Public School, and, pursuant to Education Law § 2590-h, the SLT is responsible for developing an annual school



Comprehensive Educational Plan (“CEP”) that is aligned with the school-based budget for the ensuing school year. *See* Chancellor’s Regulation A-655(I) and (II)(A)(1), Verified Pet., Ex. “B” at 1.

20. Second, the SLT has the power to conduct public business. A principal cannot override a decision of the SLT pertaining to the CEP and cannot make the final determination on the CEP. Therefore, the SLT does not merely advise the principal and make recommendations, but has the power to conduct public business.

21. Third, an SLT has two or more members. Chancellor’s Regulation A-655 requires that all SLTs have a minimum of ten members and a maximum of 17 members. *See* Chancellor’s Regulation A-655(III)(A), Verified Pet., Ex. “B” at 2.

22. Finally, a quorum of the SLT is required to conduct public business. Chancellor’s Regulation A-655(XII) provides that every SLT must develop bylaws which specify the minimum number of members required to constitute a quorum.

23. Therefore, the SLT fulfills the requirements for a public body, and SLT meetings should be open to the general public.

24. Respondents improperly prevented petitioner from attending the SLT meeting on April 1, 2014 at I.S. 49, and petitioner has standing pursuant to Public Officers Law § 107(1) to bring the instant Article 78 proceeding.

**WHEREFORE**, petitioner respectfully requests the Court to grant an Order and Judgment:

1. declaring that a School Leadership Team meeting is a meeting of a public body



which must be open to the general public pursuant to the Open Meetings Law;

2. finding that Respondents violated the Open Meetings Law;

3. ordering Respondents to participate in a training session concerning the obligations imposed by the Open Meetings Law conducted by the staff of the Committee on Open

Government pursuant to Public Officers Law § 107(1); and

4. awarding costs, fees, and disbursements, together with such other and further relief as may be just and proper.

Dated: New York, New York  
May 17, 2014

By: Michael P. Thomas

Michael P. Thomas  
Petitioner, *pro se*  
343 East 92nd Street, Apt. 5W  
New York, New York 10128  
(917) 545-4254  
michaelpthomas@hotmail.com



VERIFICATION

STATE OF NEW YORK :  
: ss.  
COUNTY OF NEW YORK :

**MICHAEL P. THOMAS** being duly sworn, deposes and says that he is the petitioner in this proceeding; that he has read the annexed foregoing **VERIFIED PETITION, In the Matter of Michael P. Thomas against New York City Department of Education, et al.,** and supporting papers, and knows the contents thereof, that the same is true to the knowledge of deponent except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes it to be true.

*Michael P. Thomas*  
\_\_\_\_\_  
Michael P. Thomas

Subscribed and sworn to before  
me this 17<sup>th</sup> day of  
May 2014

*Keaton James Covillo*  
\_\_\_\_\_  
Notary Public

**KEATON JAMES COVILLO**  
Notary Public, State of New York  
Qualified in New York County  
No. 01CO6282073  
My Commission Expires 05/20/2017

