

At a Special Term Part ____ of the Supreme Court of the State of New York, held in and for the County of New York, at the Courthouse located at _____, New York, New York, on the __th day of July, 2022.

P R E S E N T: HON. _____
Justice of the Supreme Court
SUPREME COURT OF NEW YORK
COUNTY OF NEW YORK

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In the Matter of

TAMARA TUCKER and MELANIE KOTLER,
individually, and on behalf of all parents and guardians
of New York City public school students, and
PAUL TRUST and SARAH BROOKS, individually, and
on behalf of all similarly situated New York City public
school teachers,

Petitioners,

-against-

THE CITY OF NEW YORK, THE NEW YORK
CITY DEPARTMENT OF EDUCATION, and the
CHANCELLOR OF THE NEW YORK CITY
DEPARTMENT OF EDUCATION, David C. Banks,
In his official capacity,

Respondents,

For an Order, Pursuant to Section 6301 and Article 78
of the CPLR and Sections 2590-g and 2590-q
of the New York Education Law, Annulling the
Adoption of the New York City FY 2023 Budget and
the New York City Department of Education
FY 2023 Education Budget.

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**ORDER TO SHOW CAUSE
AND REQUEST FOR A
TEMPORARY
RESTRAINING ORDER**

Index No.:

Upon the annexed Verified Petition, dated July 17, 2022, and the supporting documents
annexed thereto, the annexed Affirmation of Laura D. Barbieri, dated July 17, 2022, and the

supporting documents annexed thereto, the annexed Affidavits of Tamara Tucker, Melanie Kotler, Paul Trust, and Sarah Brooks, Tom Sheppard, and Leonie Haimson, and there being good and sufficient cause being duly shown therein, Respondents are hereby

ORDERED TO SHOW CAUSE, at the Supreme Court, State of New York, County of New York, Part ____, Room ____, at _____, New York, New York, on the __ day of July, 2022, at ____ o'clock in the _____ of that date or as soon as thereafter as counsel may be heard, why an Order should not be entered, pursuant to § 6301 and § 7802(d) of the Civil Procedure Law and Rules:

- a) Declaring that Respondents DOE and Chancellor violated New York Education Law Section 2590-q(4)(a) by their failure to require the adoption of the DOE FY23 estimated education budget by the City Board (which the DOE refers to as the Panel for Education Policy) prior to the vote by New York City Council on the City FY23 Budget, adopting that budget, thereby depriving the City Council of the benefit of the public hearing, public comments, and vote by the City Board, whose adoption was required to occur prior to the City Council's consideration and vote on the DOE FY23 education budget.
- b) Declaring that the New York City Charter and/or New York Education Law were violated by Respondents DOE and Chancellor by the failure of the Chancellor to convene a meeting of the City Board, hold a public hearing, and receive public comments, for the purposes of voting on the proposed DOE FY23 estimated budget prior to the vote by the City Council to adopt that budget pursuant to New York Education Law §§ 2590-g(7), (8) and 2590-q(5).

- c) Declaring that Respondents violated New York Education Law §§ 2590-g(1)(e), and 2590-q(4)(a), (5), (6) by failing to provide the City Board with sufficient information to allow the evaluation and determination of the impact of the proposed budget cuts in the DOE FY23 education budget, which should have included estimates for total amounts proposed for programs or activities of the community district education councils in units of appropriation separate from those set forth for programs or activities operated by the City Board, and which should have been provided in or with the presentation of the DOE FY23 education budget to the New York City Council prior to City Council's vote on its adoption;
- d) Declaring Respondent City violated New York Education Law §§ 2590-q(4)(a), (5), (6) by its adoption of the City FY23 Budget by the New York City Council and the Mayor before the vote by the City Board approving the DOE FY23 estimated budget;
- e) Declaring Respondents have failed to meet their constitutional mandate to provide a sound basic education to New York City public school students.
- f) Annuling the vote by City Council on and the Mayor's approval of the City FY23 Budget, which incorporated the DOE FY23 education budget;
- g) Mandating as soon as practicable the reconsideration and revote by the New York City Council on the DOE FY23 education budget, to thereafter be incorporated by the City into the adopted City budget for FY23;
- h) Granting to Petitioners their costs, attorneys' fees, and expenses; and
- i) Granting such other further relief as may be just and equitable; and it is further,

ORDERED that pending the hearing and determination of this matter, the Respondents are

- a. Enjoined from any further implementation of the funding cuts contained in the approved budget for the NYC Department of Education for the 2022-2023 school year;
- b. Enjoined from spending at levels other than as required by the FY 2021-2022 Department of Education budget; and it is further

ORDERED that the NYC Department of Education should as soon as practicable send a letter to all school employees and parents informing them of the temporary restraining order on the implementation of the City's Department of Education budget for the 2022-2003 school year, and that the Department of Education budget for the 2021-2022 school year will remain in effect until the Court renders a final decision on this application, with this letter copied to the Court and to the Petitioners' attorneys; and it is further

ORDERED that service of this Order to Show Cause, and the papers upon which it is granted, be made by personal and electronic service on the City of New York and the New York City Department of Education and Chancellor through the Department of Law for the City of New York, on or before the ___ day of July 2022, and shall be deemed good and sufficient service; and it is further

ORDERED that Respondents shall file, and serve by email their responsive papers, if any, on or before the ___ day of July 2022 on all parties; and it is further

ORDERED that Petitioners shall file, and serve by email, their reply papers, if any, on or before the __ day of July 2022.

E N T E R:

Justice of the Supreme Court