



THE CITY OF NEW YORK  
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(not for service)

August 4, 2022

**BY NYSCEF**

Hon. Lyle E. Frank  
Supreme Court of the State of New York  
County of New York, IAS Part 11  
60 Centre Street, Room 308  
New York, New York 10013

Re: Tucker v. City of New York, et al.  
Index No. 155933/2022

Dear Justice Frank:

This office represents Respondents City of New York and New York City Department of Education (“DOE”) and DOE Chancellor David C. Banks (collectively, “Respondents”) in the above-captioned proceeding. I write at the Court’s direction during this morning’s oral argument to propose language to be included in an order were Your Honor to rule in Petitioners’ favor.

As Petitioners’ application for a preliminary injunction and their Petition seek identical relief, Respondents respectfully submit that no further briefing is necessary, and that Your Honor may now proceed to fully dispose of this matter. Toward that end, and should Your Honor grant the Petition, Respondents respectfully propose the order that appears below. By proposing such language, Respondents do not agree that such an order is proper, and we thus reserve all our rights to seek appellate relief were such an order to be issued.

In crafting an order we respectfully ask the Court to consider that State law requires the City to maintain a balanced budget. If the Court were to order that DOE’s FY 2022 budget be in effect, that would require the DOE’s budget be increased. Without cuts to other agencies or identification of new revenues through a new vote of the City Council, such action would result in the City’s budget being out of balance in violation of State law. There are also certain transactions that are mandated by law -- for example: if a child with an IEP that requires a paraprofessional to accompany them in class moves from one school to another, the law requires that the paraprofessional, and thus the money that pays for their services, follow the child to the new school. These are referred to in the proposed order as “net-zero transactions.” We have borne these issues in mind in drafting the following proposal:

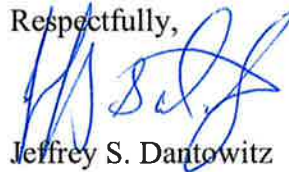
Draft Order:

IT IS HEREBY ORDERED, that until a modification of the City budget is approved by the City Council, as described in the City Charter, currently scheduled for November 2022, Respondent DOE is:

Enjoined from making any additional cuts to individual K-12 school budgets for the 2022-2023 school year, provided that this injunction does not apply to net-zero transactions involving transfer of staff within the system; any actions required by law; budget changes associated with grants where the grantor is not the City of New York; or budget changes made with the explicit agreement of the school's Principal or designee.

Thank you for your consideration of this request.

Respectfully,



Jeffrey S. Dantowitz  
Assistant Corporation Counsel

cc: All counsel of record  
(via NYSCEF)