

Summary of Court Order in Tucker vs. City of NY and what happens next

Q: What does the Appellate Court's Order mean?

A: The Appellate Court acknowledged that the City was entitled to a stay of Judge Frank's decision as a matter of law; this means that the FY 23 Education budget can remain in place until the Appellate Court hears the City's appeal on August 29, 2022.

Q: Must the City Council and Mayor wait for the Appellate Court decision to amend the FY 22 budget?

A: No. The City Council and the Mayor can amend the budget through a budget modification at any time.

Q: Must the City Council vote on any proposed budget modification?

A: Yes.

Q: If the City's appeal fails, what happens?

A: Then Judge Lyle Frank's original Decision and Order is reimposed.

Q: What did Judge Lyle Frank's Decision and Order say?

- Judge Frank ordered that the DOE budget must return to the FY 22 levels until the FY 2023 DOE budget is amended by the City Council and the Mayor. However,
 - Available federal stimulus funds could be added to the FY22 DOE budget.
 - Funding for the dyslexia program could be added to the FY22 DOE budget.
 - Net zero transfers of staff within the system were permitted.
 - Changes to non-NYC grants could be made to the FY22 DOE Budget.
- No other part of the NYC FY23 Budget was affected. Only the FY23 DOE Budget was declared invalid because the City and the Chancellor failed to follow state law by not having the PEP hearing and vote before the City Council voted.

Tucker v. City of New York, 155933/2022

FAQ: Court Decision & Order

August 10, 2022

- Changes could be made to any part of the FY23 DOE budget as long as the Court's decision was followed, but there could not be any reduction in spending below the FY22 DOE budget levels.
- Any amendment would have to be consistent with the decision. Once amended, the FY22 DOE budget would no longer apply..

Q: What about separation of powers concerns?

A: The Court has the power if not the responsibility to declare the actions of the Legislative branch and/or the Executive branch invalid when they violate any statute and/or the US or State Constitution. Judge Frank ruled that state law required that the vote of the PEP must precede the vote of City Council on the DOE's budget; because it did not, the City Council's vote to adopt the DOE's budget was procedurally flawed and held invalid, which as a result invalidated the FY23 DOE budget. He authorized the City Council to revote but did not require them to do so.

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