

SUPREME COURT OF THE STATE OF NEW YORK NEW YORK COUNTY

PRESENT: HON. LYLE E. FRANK

PART

11M

Justice

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TAMARA TUCKER, MELANIE KOTLER, PAUL TRUST,
SARAH BROOKSINDEX NO. 155933/2022MOTION DATE 07/27/2022MOTION SEQ. NO. 001

Petitioner,

- v -

THE CITY OF NEW YORK, THE NEW YORK CITY
DEPARTMENT OF EDUCATION, THE CHANCELLOR OF
THE NEW YORK CITY DEPARTMENT OF EDUCATION,
DAVID C. BANKS, IN HIS OFFICIAL CAPACITY,

DECISION + ORDER ON MOTION

Respondent.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 44, 45, 46, 47, 48

were read on this motion to/for INJUNCTION/RESTRAINING ORDER.

Upon the foregoing documents and following a transcribed oral argument of August 4, 2022, the order to show cause is granted and a preliminary injunction is granted for the reasons indicated on the record and in the instant Decision and Order.

Specifically, the approval of the Fiscal Year 2023 New York City Budget (FY'23) as it relates to funds set out for the New York City Department of Education ("DOE") was in contravention of New York State Law. What was most in question was whether the Emergency Declaration put forth by the Schools Chancellor on May 31 was a valid exercise of the Chancellor's powers. The Court finds that it was not, for the reasons indicated on the record. As such, the vote of the New York City Council on the FY'23 budget should have occurred after the Panel for Education Policy held its own vote on the budget, which it did not. Therefore, the Court finds that the petitioners have succeeded on the merits.

As both sides have argued, limbo as to the budget will cause irreparable harm to New York City schools, and therefore that prong of the petition is met. Lastly, the balance of the equities clearly favors the petitioners due to the found violation of state law.

This Decision and Order does not, and this Court cannot opine as to what level of funds should have gone into the FY'23 budget as it relates to the DOE budget. This Decision and Order is limited to the DOE budget and should not be seen in any way as making any changes to the budget as to any other agency's budget. That being written, this decision does not preclude any amendments otherwise to the FY'23 to be consistent with this Decision and Order and other applicable law.

Based on the foregoing, it is hereby

ORDERED that except as indicated below, the New York City FY '23 budget as it relates to expenditures by the Department of Education only is vacated, and all such spending levels shall revert back to the levels in the Fiscal Year 2022 New York City budget; and it is further

ORDERED that the New York City Council and the Mayor of the City of New York shall be authorized to amend the Fiscal Year 2023 New York City budget consistent with this Decision and Order and all other applicable law, at which point the Fiscal Year 2022 spending levels will no longer be required to be complied with; and it is further

ORDERED that nothing in this Order shall prevent: a) the allocation of additional funds to DOE from sources other than from New York City expenditures, such as the Federal Government; b) the implementation of the dyslexia program already being created by the DOE; c) net-zero transactions involving transfer of staff within the system; and d) budget changes associated with grants where the grantor is not the City of New York.


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DATE

LYLE E. FRANK, J.S.C.

CHECK ONE:

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CASE DISPOSED

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NON-FINAL DISPOSITION

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GRANTED

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DENIED

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GRANTED IN PART

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OTHER

APPLICATION:

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SETTLE ORDER

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SUBMIT ORDER

CHECK IF APPROPRIATE:

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INCLUDES TRANSFER/REASSIGN

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FIDUCIARY APPOINTMENT

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REFERENCE