

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

WOMEN OF COLOR FOR EQUAL JUSTICE,
REMO DELLO IOIO, ELIZBETH LOIACONO,
SUZANNE DEEGAN, MARITZA ROMERO, JULIA.
HARDING, CHRISTINE O'REILLY, AYSE P.
USTARES, SARA COOMBS-MORENO, JESUS
COOMBS, ANGELA VELEZ, SANCHIA BROWN,
AMOURA BRYAN, ZENA WOUADJOU, CHARISSE
RIDULFO, TRACY-ANN FRANCIS MARTIN, KAREEM
CAMPBELL, MICHELLE HEMMINGS HARRINGTON,
MARK AYNE, CARLA GRANT, OPHELA INNISS,
CASSANDRA CHANDLER, AURA MOODY, EVELYN
ZAPATA, SEAN MILAN, SONIA HERNANDEZ,
BRUCE REID, JOSEPH RULLO, AND CURTIS BOYCE,
individually and on behalf of similarly situated individuals,

Plaintiffs,

v.

THE CITY OF NEW YORK, MAYOR ERIC L. ADAMS,
COMMISSIONER ASHWIN VASAN, MD, PHD
DEPARTMENT OF HEALTH AND MENTAL HYGIENE,
AND DOES 1-20

Defendants

**CLASS ACTION COMPLAINT
FOR DAMAGES,
DECLARATORY AND
INJUNCTIVE RELIEF**

AND JURY DEMAND

INDEX No.: _____

INTRODUCTION

1. This action arises out of the refusal of few thousands of City of New York (the "City") employees who refused to comply with certain Covid-19 Vaccine Orders issued by the New York City Department of Health and Mental Hygiene ("NYCDOH") that only applied to City employees and not to the general public or residents of the City.
2. This is a civil action for damages and equitable relief based on City's deprivation of Plaintiffs rights guaranteed to them by: (i) the workplace safety standards of the Occupational Health and Safety Act of 1970 (29 U.S.C. §651 et seq.), and (ii) the anti-discrimination provisions of

the American's with Disability Act, 42 U.S.C. §12101 et seq, Title VII and the New York City Administrative Code §8-107 the New York City Human Rights Act (NYCHRA), which prevent employers from discriminating against employees based on an employee's "perceived or regarded as" disabled status and/or based on an employee's religious beliefs.

3. Since 1970 the Occupational Health and Safety Act (29 U.S.C. §651 et seq.) (OSH Act) has established that employers have a non-delegable duty to provide employees with a safe workplace and the Occupation Health and Safety Administration has created safety standards that employers are mandated to meet to provide employees with their "human right"¹ to a safe workplace. OSHA applies to the City of New York through the New York OSHA State Plan.
4. Plaintiffs' rights under OSHA where deprived when the then City's former NYCDOH Commissioner Dave A. Chokski enacted and enforced approximate twelve (12) Covid Vaccine Orders applicable only to New York City agency employees and contractors between August 10, 2021 and December 13, 2021 ("Vaccine Orders") all of which were pre-empted by the OSHA standards as the Vaccine Orders only applied to employees workplace safety and health and not to general public health.
5. Because the Vaccine Orders were pre-empted by the OSHA Standards, the City's subsequent adverse actions against employees who refused to submit to the Vaccine Orders, including placing employees on leave without pay and/or terminating them for failure to comply with the invalid Vaccine Orders, amounted to harassment and created a hostile work environment for Plaintiffs who were also treated unfairly and suffered discrimination based on religion and perceived disability status under Title VII, the American's with Disability Act and corresponding New York City Human Rights Act. Rather than comply with the OSHA Standards, the City deliberately with reckless disregard for the human rights of its employees

¹ See _____

failed to disclose to its employees their rights to be provided a safe workplace and training in respiratory hazards under OSHA. Then the City forced the employees to seek exemptions from the Vaccine Orders that the City was never going to grant because the City wrongly applied an erroneous standard for exemptions under Title VII that did not apply to OSHA standards.

6. Plaintiffs seek class certification to represent the almost 12,000 employees reported in November, 2021 by former Mayor DeBlasio to have submitted requests for exemptions from the Vaccine Orders. See Exhibit #1

JURISDICTION AND VENUE

7. The jurisdiction of this Court is proper under Title VII of the Civil Rights Act of 1946, 42 U.S.C. 2000(f)(3) et Seq (“Title VII”), the Americans with Disabilities Act, 42 U.S.C. §12101 et. seq.
8. This Court has jurisdiction over the subject matter of this action pursuant to 42 U.S.C. § 2000e-5(f), 28 U.S.C. § 1331, and 28 U.S.C. § 1343(a)(4); and, 42 U.S.C. § 1981, et seq.
9. Moreover, this Court has supplemental jurisdiction, pursuant to 28 U.S.C. § 1367(a), over any and all claims arising under state law, namely the New York City Human Rights Law (“NYCHRL”) codified in Administrative Code §8-107, in that such claims are so related to Plaintiff’s claims within the original jurisdiction of this Court that they form part of the same case or controversy.
10. The unlawful employment practice alleged herein occurred wholly or in part, in the jurisdiction of the Eastern District of New York, specifically, Brooklyn, NY.

JURY DEMAND

11. Plaintiffs hereby demand a trial by jury on all issues properly triable thereby.

PARTIES

A. PLAINTIFFS

1. Organization Plaintiff

11. Plaintiff Women of Color for Equal Justice (WOC4EqualJustice) is a nonprofit social justice policy and litigation subsidiary affiliate of the Huntsville Madison County Community and Economic Development Corporation (HMCCEDC) a 501c(3) incorporated in Alabama and has members and operates affiliates organizations in various regions of the United States to seek redress for social justice harms to communities of color. Specifically, WOC4EJ advocates to empower and protect the rights of women, women of color, marginalized communities of color and anyone experiencing discrimination.

a. Individual Plaintiffs & Class Representatives

12. Plaintiffs bring this action on behalf of themselves and all City employees within any and all City agencies of approximately 50 city departments, including but not limited to Department of Education, Department of Transportation, Department of Sanitation, Central Administrative Services, Police Department, Department of Children's Services. Plaintiffs make up two (2) classes of City employees, as follows:

- a. City Employees who have refused to submit to the Vaccine Orders, evidenced by having submitted to the City a written request for exemption from the Vaccine Orders that was denied and who were subsequently placed on leave without pay and/or terminated and have not returned to work after exhausting the City's appeal process because the City prohibits them from returning to work because of their unvaccinated status and because the employees continue to refuse to submit to the Vaccine Order(s) (the "Vaccine Deficient Class"). The Vaccine Deficient Class are divided into two subclasses, namely City employees who:

- i. can perform the essential functions of their job remotely or without contact with the public, clients and/or have minimum contact with co-workers, and whose request for exemption from the Vaccine Order included a request for continued remote work; and
 - ii. Cannot perform the essential functions of their job remotely and their jobs require face to face contact with either the public or City clients.
- b. City Employees who have refused to submit to the Vaccine Orders, evidenced by having submitted a request for exemption that was denied by the City and who were subsequently placed on leave without pay, and/or subsequently terminated, but after experiencing lost pay and loss of other benefits by the City for refusing to submit to the Vaccine Order(s), have been harassed and coerced by City with the deprivation income to submit to the Vaccine Order so they can regain their pay and their right to return to work (the “Coerced Class”);

EEOC Right to Sue Letter Received

13. Remo Dello Ioio, a tenured Home Instructor employee who worked over 17 years for the New York City Department of Education who filed a EEOC Charge No. 520202200117 and received a Right to Sue Letter dated January 19, 2022. See Dello Ioio Affidavit attached as Exhibit #2. He represents the Vaccine Deficient Class.
14. Maritza Romero is a former tenured Special Education Teacher who worked for the New York City Department of Education for over 20 years who has been denied the right to work in a safe workplace because she exercised her right to refuse the Vaccine Order. She has filed an EEOC Charge No. 520202200311 and received a Right to Sue Letter dated January 19, 2022. She represents the Vaccine Deficient Class.

15. Elizabeth Loiacono, a former employee of the New York City Department of Education filed a EEOC Charge No. 520202200353 and received a Right to Sue Letter Dated March 24, 2022. She represents the Vaccine Deficient Class. See Ms. Loicono's Affidavit attached as Exhibit #3
16. Suzanne Deegan, a former employee of the New York City Department of Education who was placed on leave without pay and subsequently terminated for refusing to submit to the Vaccine Orders filed a EEOC Charge No. 520202200109 and received a Right to Sue Letter Dated January 19, 2022. She represents the Vaccine Deficient Class.
17. Julia L. Harding is a former Education Administrator-Central Based Support Team Case Manager for New York City Department of Education who was been placed on leave without pay since October 4, 2021 and was informed she was terminated for refusing to submit to the Vaccine Orders. She has filed a EEOC Charge No. 520202200147 and received a Right to Sue Letter Dated January 19, 2022. She represents the Vaccine Deficient Class See Harding Affidavit attached as Exhibit #4
18. Christine O'Reilly, a tenured teacher in Academic Intervention Services with over 22 years of service with the New York City Department of Education filed a EEOC Charge No. 520202200421 and received a Right to Sue Letter Dated January 19, 2022. She represents the Vaccine Deficient Class.
19. Ayse P. Ustars, is a 20+ year Social Worker for the City's Department of Education who was placed on leave without pay on October 4, 2021 for refusing to submit to the Vaccine Order, filed a EEOC Charge No. 520202200062 and received a Right to Sue letter; but due to the financial hardship she experienced when she was placed on leave without pay for five (5) months, on March 9, 2022, Ms. Ustars was coerced to take the vaccine due to financial hardship of being forced to be on leave without pay for five months submitted to the Vaccine

Order and returned to work on March 15, 2022 and now seeks lost pay and emotional distress damages. She represents the “Coerced Class.” See Usters Affidavit attached as Exhibit #5

EEOC Complaint Filed

Under information and belief, the following Class Plaintiffs have filed Charges/Complaints with the EEOC as a prerequisite to filing this complaint.

20. Sara Coombs-Mereno, is a tenured teacher with the Department of Education who was put on leave without pay for refusing to submit to the Vaccine Orders and later terminated by the City. She seeks represents the Vaccine Deficient Class. See Sara Coombs-Mereno Affidavit attached as Exhibit #6
21. Sancha Brown, is a tenured teacher with the Department of Education who was put on leave without pay for refusing to submit to the Vaccine Orders and subsequently terminated. See Sancha Brown Affidavit attached as Exhibit #7
22. Amoura Bryan, is a tenured teacher with the Department of Education who was put on leave without pay for refusing to submit to the Vaccine Orders and was subsequently terminated. She represents the Vaccine Deficient Class. See Ms. Bryan’s Affidavit attached as Exhibit #8
23. Zena Wouadjou, is a tenured teacher with the Department of Education who was put on leave without pay for refusing to submit to the Vaccine Orders and was subsequently terminated. She represents the Vaccine Deficient Class. See Ms. Wouadjou Affidavit attached as Exhibit #9
24. Evelyn Zapata, Christine O’Reilly, Edward Weber, were all former employees of the Department of Education who were placed on leave without pay and subsequently terminated for refusing to submit to the Vaccine Orders.
25. Tracy-Ann Francis-Martin, was a supervisor for the Department of Child Protective Services who was put on leave without pay for refusing to submit to the Vaccine Orders and was

subsequently terminated. She represents the Vaccine Deficient Class who can work remote.

See Ms. Francis-Martin's Affidavit attached as Exhibit #10

26. Michelle Hemmings Harrington, was an employee of the Department of Transportation who was placed on leave without pay and subsequently terminated for refusing to submit to the Vaccine Orders. See Ms. Harrington's Affidavit attached as Exhibit #11

27. Ophelia Inniss, was an employee of the Administration of Children Services who was placed on leave without pay and subsequently terminated for refusing to submit to the Vaccine Orders.

28. Cassandra Chandler, was an employee of the Administration of Children Services who was placed on leave without pay and subsequently terminated for refusing to submit to the Vaccine Orders.

29. Carla Grant, was an employee of the Department of Transportation who was placed on leave without pay and subsequently terminated for refusing to submit to the Vaccine Orders.

30. Charisse Ridulfo, is a tenured teacher with the Department of Education who was put on leave without pay for refusing to submit to the Vaccine Orders and was subsequently terminated. She represents the Vaccine Deficient Class.

31. Kareem Campbell was an employee of the Department of Transportation who was placed on leave without pay and subsequently terminated for refusing to submit to the Vaccine Orders.

32. Bruce Reid, was an employee of the Department of Sanitation who was placed on leave without pay and subsequently terminated for refusing to submit to the Vaccine Orders. Attached is Mr. Reid's Affidavit as Exhibit # 12

33. Joseph Rullo, was an employee of the Department of Sanitation who was placed on leave without pay and subsequently terminated for refusing to submit to the Vaccine Orders. Attached is Mr. Rullo's Affidavit as Exhibit #13

34. Sean Milan was an employee of the Department of Sanitation who was placed on leave without pay and subsequently terminated for refusing to submit to the Vaccine Orders. He has filed an EEOC complaint.

35. Sonia Hernandez was an employee of the New York Police Department who was placed on leave without pay and subsequently terminated for refusing to submit to the Vaccine Orders.

Coerced Class

36. Angela Velez is a Guidance Counselor for Home Instruction Schools which is a remote position with the Department of Education. Ms. Velez was placed on leave without pay on October 4, 2021 for refusing to submit to the Vaccine orders. But after almost 5 months being on leave without pay as the primary earner in her house and unable to find another job due to her unvaccinated states, Ms. Velez with tears in her eyes and under duress submitted to the Vaccine Order and returned to work in March. She has filed an EEOC charge as required to be included in this action. She represents the “Coerced Class”.

37. Jesus Coombs is the Chief Architect for the Department of Central-Wide Administrative Services. On January 13, 2022, Mr. Coombs was placed on leave without pay for refusing to submit to the Vaccine Orders. He was scheduled to be terminated, but because he is the sole income earner in his home, he with much guilt, anxiety and distress, submitted to the Vaccine Order and returned to work on February 15, 2022. He represents the “Coerced Class” who carries much guilt and anxiety for having to choose between meeting the needs of their family and God. See Mr. Coombs Affidavit attached as Exhibit #14

38. Under information and belief all Class Plaintiffs have completed other pre-requisites for filing their claims.

B. DEFENDANTS

39. The City including all applicable agencies which are approximately 50 agencies, including but not limited to the New York Police Department, Department of Education, Department of Transportation, Department of Sanitation, Department of Citywide Administrative Services, and Administration for Children's Services. The law of the State in which the district court is located determines a party's amenability to suit. Under the New York City Charter, "all actions and proceedings for the recovery of penalties for the violation of any law shall be brought in the name of the City of New York and not in the name of any agency, except otherwise provided by law."
40. The City Department of Health and Mental Hygiene has been named separately because the New York City Health Code and Rules §3.01 General Powers grants it with exclusive authority for protecting the public health of the residents of the City.

FACTUAL BACKGROUND

41. On June 23, 2021 then New York Governor Cuomo announced the end of the Covid-19 State of Disaster Emergency on June 24, 2021, due to success in voluntary vaccination rates in the state, and declining hospitalizations.
42. Notwithstanding the end of the state of emergency, on August 2, 2021, then New York City Mayor Bill de Blasio (Mayor), issued Executive Order 75 ("EO 75") claiming that the pandemic continued to pose a danger to the health and safety of New York City residents, and that EO 75 required all newly hired for employment with any City agency to provide proof of Covid-19 vaccination, unless the newly hired obtained an exemption due to medical or religious reasons through the NYC reasonable accommodation process. See Exhibit #15

43. On August 10, 2021, the NYCDOH issued an Order requiring staff providing Covid operated or contracted services in residential and congregate settings to provide proof of Covid-19 vaccination or undergo weekly testing. See Exhibit #16
44. On August 24, 2021, NYCDOH issued an Order that required all Department of Education employees to provide proof of Covid-19 vaccine with no option to undergo weekly testing. See Exhibit # 17
45. On August 31, 2021, the Mayor issued Executive Order No. 78, requiring that beginning on September 13, 2021, all City employees were to provide proof of full vaccination or provide weekly testing until the employee submits to full vaccination. See Exhibit #18
46. During the August 31, 2021, Press Conference announcing Executive Order No. 78, when asked by media about religious exemptions, then Mayor de Blasio stated that “Those quote unquote, exemptions are not going to be honored. They’re just, that’s not the way to do things.” See Exhibit #18(b) – Press Conference Transcript
47. During another media press conference on September 8, 2021, then Mayor de Blasio stated as follows:

“We recognize there are definitely, in a few cases and it's pretty rare where someone medically cannot be vaccinated, but where that is confirmed by a process to make sure that, you know, all the information is accurate, if someone cannot be vaccinated, of course there's grounds for a valid, medical exemption. Equally, and in very few cases we expect, but there are narrow and **specific grounds for religious exemption. Those will be honored.** There'll be a process to confirm them, but they will be honored. Those folks will continue to work for us in some capacity, in some location, we got to work that through, but those cases will be honored, but again, expect them to be very rare.”

See September 8, 2021 Press Conference Transcript Exhibit #18(c)

48. Again during a media press Conference on September 23, 2021, then Mayor de Blasio made the following statements regarding vaccine exemptions:

Mayor: Yeah, it's a great question. Thank you. Yes. And very powerfully Pope **Francis has been abundantly clear that there's nothing** in scripture that suggests people shouldn't get vaccinated. Obviously, so many people of all faiths have

been getting vaccinated for years and decades. There are, I believe it's two well-established religions, Christian Science and Jehovah's Witnesses that have a history on this, of a religious opposition. But overwhelmingly the faiths all around the world have been supportive of vaccination. So, we are saying very clearly, it's not something someone can make up individually. It has to be, you're a standing member of a faith that has a very, very specific long-standing objection. Go ahead.

See September 23, 2021 Press Conference Transcript Exhibit #18(d)

49. On September 12, 2021, the NYCDOH issued an Order requiring City employees working in certain childcare programs to be vaccinated. See Exhibit #19
50. On September 28, the NYCDOH updated its DOE Order requiring all DOE employees to be vaccinated without a testing option. See Exhibit #20
51. On October 20 and 31, the NYCDOH issued Orders requiring all City Employees and Contractors to submit to Covid-19 vaccination. See Exhibit #21
52. On December 13, 2021, NYCDOH issued Order requiring all private employers to require employees to submit to Covid-19 vaccination. See Exhibit #22
53. New York Public Health Law, PBH §206(L) prohibits Public Health Commissioners in the state of New York from authorizing mandatory immunization of adults.
54. The Mayor's Executive Orders and the NYCDOH Orders (collectively the "Vaccine Orders") were only applicable to all City employers and by December 10, 2021, to private employees for "health and safety" in the workplace, which standards are governed by Federal OSHA Standards applicable to the City employees pursuant to the OSHA New York State Plan, which applies to state and municipal governments and their employees.
55. On November 22, 2021, Mayor de Blasio reported that approximately 12,400 City workers applied for exemptions from the City Employee Vaccine Orders since the orders were implemented. Of the 12,400, 6,000 police officers were seeking exemptions from the Vaccine Orders. See Exhibit #23

56. All City employees were required to apply for an exemption through an online portals called SOLAS.
57. On November 22, 2021, Mayor de Blasio reported that approximate 2,400 City employees were placed on leave without pay (LWOP),
58. At an October 21, 2021 Mayor de Blasio indicated that most City employees seeking exemptions did not meet the certain exemption standards, which were not disclosed to the City Employees by that time. See Exhibit # 24
59. All Plaintiffs were denied their exemption request and were required to appeal to the New York City-Wide Administrative Appeal for reconsideration.
60. All Plaintiffs had their appeals denied, and all Plaintiffs were placed on Leave without pay and ultimately terminated sometime around January 2022.
61. While all tenured teachers at the Department of Education have not been properly terminated for “cause” pursuant to New York City Education Law §3020a, which requires the Board of Education to file charges against them, all teachers are prohibited from returning to work.
62. All other agency Plaintiffs were also placed on leave without pay and terminated.

GENERAL ALLEGATIONS

63. All conditions precedent to filing this action and to recovery of all relief sought in this Complaint have been satisfied, excused or waived.
64. Plaintiffs allege that the City Orders were and are unenforceable as a matter of law for the following reasons:
 - a. They are preempted by the Occupational Safety and Health Act of 1970 (“OSHA Act”), as amended, Public Law 91-596, 29 U.S.C. 651 e seq, because all the Vaccine Orders

- only apply to City Employees as workplace safety orders and are not orders for the general “public health”.
- b. they violate the Supremacy Clause.
 - c. they violate the Commerce Clause; and
 - d. they violate the New York State Public Health Law (PHL) §206(1)(l), which prohibits the New York Department of Health and Health Planning Commissioners (“Commissioner”) from establishing regulations that mandate adult vaccination. (See PHL §206(1)(l))
65. Pursuant to its exclusive power over matters of occupational health and safety, the federal government (long before the Covid-19 Pandemic) has established a comprehensive systems of laws, regulations, procedures, and administrative agencies to regulate occupational safety and health.
66. Congress created OSHA upon a finding that “personal injuries and illnesses arising out of work situations impose a substantial burden upon and are hindrance to interstate commerce in terms of lost production, wage loss, medical expenses, disability compensation.” 29 U.S.C. § 651(a).
67. Congress explicitly stated that the Secretary of Labor was responsible for setting “mandatory occupational safety and health standards applicable to business affecting interstate commerce, and by creating Occupational Safety and Health Review Commission for carrying out adjudicatory functions.” 29 U.S.C. §651(b)(3).
68. OSHA standards are applicable to New York City through the New York Public Employee Safety and Health (PESH) which covers all state and local government workers in the state and the New York PESH has adopted all OSHA standards under the New York State Plan included in 29 CFR 1952.24.

69. The OSH Administration has promulgated under the general duties clause Section 5(a) regulations which apply to each employer the duty “to furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees; and shall comply with occupation safety and health standards promulgated under the Act”. 29 U.S.C. §654a
70. The OSH Administration has promulgated regulations that mandate employers to comply with the “Respiratory Protection” regulations at any time, including during a Pandemic, at 29 C.F.R. §1910.134(a)(1) atmospheric contaminations in the forms of sprays or vapors exist in the workplace, which under the general duty clause, it is the duty of the employer eliminate “recognized hazards” that are causing or are likely to cause death or serious physical harm to employees. See **Affidavit of Expert Bruce Miller, Exhibit #25**
71. The OSH Administration has promulgated regulations which apply to Respirators and Respiratory Protection Plan pursuant at 29 C.F.R. 1910.134(a)(2) that can protect employees and the public whom employees may serve from exposure to atmospheric contaminations, including the airborne virus that causes Covid-19, that can cause severe injury and death,
72. The OSH Administration has promulgate regulations that allow New York City to utilize remote work as an administrative control to meets its general duty. See **Affidavit of Expert Bruce Miller, Exhibit #25** and See **Affidavit of Expert Baxter Montgomery, MD, Exhibit #26** See **Affidavit Expert Dr. Henry Ealy, NMD Exhibit #27**
73. OSHA provides that “the Act is read as preventing any State agency or court from asserting jurisdiction under State law over any occupational safety or health issue with respect to which Federal standards have been issued under Section 6 of the Act”. 29 C.F.R. §1902.1(a).
74. Congress stated that “[a]ny State which, at any time, desires to assume responsibility for development and enforcement therein of occupational and safety and health standards relating

to any occupational safety or health issue with respect to which Federal standard has been promulgated under 29 U.S.C. §655 **shall** submit a State Plan for the development of such standards and their enforcement.” 29 U.S.C. §667 (emphasis added)

75. The NY City has developed Executive Orders, adopted into law, relate to occupational health and safety issues applicable only to the “workplace” which Federal Standards have been promulgated under 29 U.S.C. §654 and §655. **See Affidavit of Dr. Montgomery, Exhibit #26**
76. The NY City Executive Orders exceeds its authority to regulate “workplace safety for employees” and is pre-empted by OSHA as it regulates how City agencies maintain a safe workplace when the airborne contaminate, namely the airborne virus that causes Covid-19, by specifically requiring employees to submit to a Covid-19 vaccine for the purpose of protecting the health and safety of the workplace, and other employees, which is impermissible under C.F.R. §1910.134(a)(1) and (2) and which is not the duty of employees pursuant to 29 U.S.C. §654.

CLASS ALLEGATIONS

77. Class representative Plaintiffs, seek class certification pursuant to Fed. R.Civ.P. 23(a), Fed.R.Civ.P. 23(b)(1)((A), to Fed.R.Civ.P. Rules 23(b)(3) to pursue claims for damages, and on behalf of themselves and all persons similarly situated.
78. The Class claims are appropriate under Fed.R.Civ.P. 23(b)(1)((A) because prosecuting separate actions by the Plaintiffs against the City would create a risk of inconsistent or varying adjudications with respect to the individual class members that would establish incompatible standards of conduct for the party opposing the class.
79. The Class claims raise numerous common questions of fact or law, including, but not limited to:

- a. Whether the Vaccine Orders are preempted by OSHA standards because the Vaccine Orders specifically targets City employees and not a larger public health goal;
- b. Whether the enforcement of invalid Vaccine Orders, amounts to harassment and/or discrimination pursuant to Title VII religious harassment,

80. Class Certification is also appropriate under Federal Rules of Civil Procedure 23(b)(3). The common issues identified above will predominate over any purely individual issues. Moreover, a class action is superior to other means for fairly and efficiently adjudicating the controversy.

81. The claims of the named Plaintiffs are typical of the claims of the class in that the named Plaintiffs and class members claim that their right to a safe workplace pursuant to OSHA standards have been denied by City's reckless disregard to disclose to Plaintiffs their right to remote work and/or Respiratory Protections provided under OSHA Standards. The named Plaintiffs claim that they were forced to seek an unnecessary religious exemption subjected to harassing interrogations regarding their religious beliefs, and discriminated against based on their "perceived disability" and treated differently from employees who were granted accommodations based on their religious beliefs while they were denied any accommodations.

82. Thus, the named Plaintiffs seek have the same interests and have suffered the same type of damages as the class members, namely loss wages and benefits for being placed on leave without pay and/or terminated due to their refusal to submit to the Vaccine Orders

COUNT 1 – VIOLATION OF OSHA

83. Plaintiffs realleges and incorporates by reference Paragraphs 60-73 of this Complaint as if fully set forth herein.

84. Only the Secretary of Labor can approve a plan submitted by a State that attempts to supersede the requirement of the OSHA.

85. The New York City Department of Health Vaccine Orders have not been approved as a State Plan.

86. As a result, the New York City Department of Health Vaccine Orders are in direct violation of the preemption provisions of the OSHA.

**COUNT II – VIOLATION OF THE SUPREMACY CLAUSE
(Article VI, Section 2, of the United States Constitution; 42 U.S.C. §1983)**

87. Plaintiffs realleges and incorporates by reference Paragraphs 60-73 of this Complaint as full set forth herein.

88. Article VI, Section 2, of the United States Constitution, known as the Supremacy Clause, provides:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the Supreme Law of the Land, and the Judges in every State shall be bound thereby, anything in the Constitution or Laws of any State to the Contrary notwithstanding.

89. The Supremacy Clause mandates that federal law preempts any state regulation of any area over which Congress has expressly or impliedly exercised exclusive authority or which is constitutionally reserved to the federal government.

90. In 1979, the United State Government through the Department of Labor legislated Safety and health Regulations for General Industry 29 C.F.R. §1910.134. New York City is subject to these OSHA Act requirements.

91. Pursuant to 29 U.S.C. §667, entitled “State Jurisdiction and Plans,” state standards for occupation health and safety may be promulgated in the “absence of applicable Federal standards.” Thus, a state agency may assert jurisdiction under state law over any occupation safety or health issue with respect to which no standard is in effect under 29 U.S.C. §655.

92. As set forth in paragraphs 1 through 50 above, the OSH Act provides standards for General Industry to protect employees from air borne contaminants in the workplace through the Respiratory Standard and through administrative controls that include “remote” work for employees promulgated under 29 U.S.C. §655.
93. New York City has not obtained the requisite approval of the Secretary of Labor to enact the Executive Orders.
94. The New York City Executive Orders are occupational safety and health standards relating to occupations safety or health issues with respect to which federal standards have been promulgated and are in direct violation of the preemption provisions of the OSH Act.
95. Accordingly, the New York City Executive Orders are preempted by federal law.

COUNT III – COMMERCE CLAUSE
(United States Constitution, Art. I, §8, cl.3. and 42 U.S.C.A. §1983)

96. Plaintiffs realleges and incorporates by reference Paragraphs 60-73 of this Complaint as full set forth herein.
97. 29 U.S.C.A. §667 states that “the Secretary shall approve the plan submitted by a State.... If such plan in his judgment provides for the development of safety and health standards relating to one or more safety or health issues... and do not unduly burden interstate commerce.”
98. The New York City Executive Orders, which have not been approved by the Secretary, unduly burden interstate commerce.
99. The Commerce Clause provides that “Congress shall have Power to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.” U.S. Const. Art. 1 §8, cl. 3. The Commerce Clause implicitly restricts the states’ power to burden interstate

commerce. The Commerce Clause thus denies the States the power to unjustifiably discriminate against or burden interstate commerce.

100. Pursuant to its exclusive power over matters concerning the Commerce Clause, Congress authorized the “Secretary of Labor to set mandatory occupational safety and health standards applicable to businesses affecting interstate commerce, and by creating an Occupational Safety and Health Review Commission for carrying out adjudicatory functions under this chapter.” 20 U.S.C. §651©.
101. These federal safety regulations were created through the exercise of [Congress] power to regulate comer among the several States and with foreign nations and to provide for the general welfare...” 29 U.S.C. §651(b).
102. The New York City Executive Orders have enacted a standard for its agencies to require employees to submit to a Covid-19 vaccine in order for the City to meet its duty to its employees to provide a safe workplace pursuant to 29 U.S.C. §654, which requirement directly conflicts with the objective of the general duty clause which requires the employer to utilize existing OSHA standards and regulations to eliminate any airborne contaminates, like the virus that causes Covid-19. See Exhibit #25 and Exhibit #26
103. The New York City Executive Orders also contradicts the objective of 29 U.S.C. §654 which is to eliminate recognized hazards that are “likely to cause” death or serious physical harm by requiring employees to be inoculated with a vaccine that has recognized hazards that are “likely to cause death or serious physical harm”. See Exhibit #26.
104. Under the Dormant Commerce Clause, the City cannot enact a regulation which burdens interstate commerce if the burden imposed on such commerce is clearly excessive in relation to the putative local benefits.

105. For example, the New York City Executive Order dated August 24 and October 20, 2021, applicable to all New York City employees and private employers which requires all employers in New York City to prevent unvaccinated employees from entering their workplace and the City has terminated Plaintiffs thereby preventing Plaintiffs who live inside and outside New York City and from not only working for the City but also working for private companies unduly burdening interstate commerce.
106. New York City cannot set standards that conflict with OSH Act standards designed to retain employees in the workplace while providing a safe workplace for the employee.

COUNT IV – VIOLATION OF PROCEDURAL DUE PROCESS
(The Due Process Clause of the Fourteenth Amendment; 42 U.S.C. §1983)

107. Plaintiffs realleges and incorporates by reference Paragraphs 60-73 of this Complaint as full set forth herein.
108. The Fourteenth Amendment of the United States Constitution provides that “[n]o State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person life, liberty, or property, without due process of law; nor to deny to any person within its jurisdiction the equal protection of the laws.”
109. The New York City Executive Orders allow for the arbitrary and capricious enforcement of the Covid-19 vaccine requirement on City employees. The New York City has granted religious and/or medical exemptions from the Covid-19 vaccine requirement to approximately 600 employees based on arbitrary and capricious criteria that has not been disclosed to all employees who have sought exemptions from the Covid-19 vaccine requirement.

110. Furthermore, the New York City Executive Orders have arbitrarily exempted its agencies from compliance with the OSH Act standards and regulations applicable to respiratory communicable disease.

COUNT V
(Discrimination pursuant to ADA and NYC Admin. Code §8-101, §8-107)

A. Plaintiffs Are In The Protected Class of those with a “Perceived Disability”

111. Plaintiffs realleges and incorporates by reference Paragraphs 1-107 of this Complaint as full set forth herein.
112. The New York City intentionally and unlawfully harassed, discriminated and retaliated against both Classes of Plaintiffs on the basis of Plaintiffs’ religion in violation of Title VII of the Civil Rights Act of 1964, as amended (“Title VII”) and based on Plaintiffs perceived disability pursuant to the American’s with Disability Act.
113. The Citys engaged in extreme and outrageous conduct intentionally or with reckless indifference to Plaintiffs civil rights which caused Plaintiffs severe emotional distress in violation of New York City Human Rights Law (CHRL) codified in Administrative Code § 8-107, entitled "Unlawful Discriminatory Practices" provides in Subdivision (1) (a) (3) that, in the context of "[e]mployment," "[i]t shall be an unlawful discriminatory practice . . . [f]or an employer or an employee or agent thereof, because of the actual or **perceived . . . disability** . . . status of any person . . . [t]o discriminate against such person in compensation or in terms, conditions or privileges of employment" (§ 8-107 [1] [a] [3]).
114. The NYCHRL Administrative Code § 8-107[15][a] goes on to state that “it is an unlawful discriminatory practice **not to provide** a reasonable accommodation to enable a person with a disability to satisfy the essential requisites of a job.....

115. On November 1, 2021, the New York City Human Rights Commission issued its anti-discrimination guidelines regarding New York City Human Rights Laws² titled “COVID-19 & Employment Protections,” which relevant parts state as follows:

Employers must not discriminate against or harass employees with actual or perceived infection with COVID-19, or basedon the presumption that theyare more likely to contract COVID-19 due to their actual or perceivedreligion or another protected status.

(See “Guidelines attached Exhibit #28)

116. By definition, all unvaccinated Plaintiffs City employees are “perceived as having a disability” per the Guidelines because the NYCDOH Emergency Orders expressly declare that the “unvaccinated” are more likely to contract Covid-19, whether they are unvaccinated due to their religion practices or not. The relevant declaration of “perceived disability” in the NYCDOH orders state as follows:

The October 20, 2021 NYCDOH Vaccine Order states as follows:

WHEREAS, the Department reports that between January 17 and August 7, 2021, people who were unvaccinated or not fully vaccinated accounted for 96.1% of COVID-19 cases, 96.9% of COVID-19 hospitalizations, and 97.3% of COVID-19 deaths in New York City; an

(See Exhibit #21, Page 2)

117. Based on the above NYCDOH Vaccine Order declarations, all Plaintiffs who are unvaccinated due to their choice to remain unvaccinated, whether for religious reasons or otherwise, fall into the protected class of persons with a “perceived disability” because they have been declared by the highest healthcare official in New York State, the Commissioner of the New York Department of Health, as being more likely to contract severe Covid-19 because of their choice to remain unvaccinated. See Plaintiffs Affidavits attached as Exhibits #2– 14.

² See all amendments to the CHRL at <https://www1.nyc.gov/site/cchr/law/amendments.page>

118. Put in more medical terms, the unvaccinated have a “perceived disability” because they are perceived to suffer from a “Covid-19 vaccine deficiency”, wherein they lack the required amount of vaccination, as defined by the DOH Commissioner, to prevent severe Covid. (herein after referred to medically as a “Vaccine Deficiency”)³
119. The Guidelines go on to authorize and mandate, as a minimum standard, the following list of reasonable accommodations that employers can provide employees who suffer from a Vaccine Deficiency so that they can retain their jobs:

Employers have an ongoing duty to provide employees with accommodations based on disability (including disabilities related to COVID-19)....Examples of reasonable accommodations include allowing an employee to work remotely, changing their schedule, allowing them to submit to regular testing for Covid-19 as an alternative to vaccination, and/or providing certain personal protective equipment as mask or changing employment work schedules. Employers must also implement business changes that are responsive to COVID-19 in a manner that allows for reasonable accommodations, unless doing so would pose an undue hardship..... defined as..... an accommodation requiring significant expense or difficulty.....(Emphasis added) (the “Authorized Accommodations”)

120. All Plaintiffs submitted requests to The City requesting an exemption and/or the Authorized Accommodations to allow them to remain Vaccine Deficient and perform the essential functions of their job due to their “perceived disabled” status.

B. Refusal to Provide Reasonable Accommodations To Plaintiffs

121. Most Plaintiffs who had jobs that could be worked remotely requested adjustments to the workplace policies to allow them to work their jobs “remotely” from home.

(See Plaintiff Affidavits attached to this Complaint **Exhibits # 2-14** and all exhibits attached to each affidavit).

122. All the Plaintiffs had their requests for exemption and/or for the Authorized Accommodations rejected.

(See Plaintiff Affidavits attached to this Complaint as **Exhibits #2-14** and all exhibits attached to each affidavit as **Exhibit A**).

³ Merriam-Webster Medical Dictionary defines a “deficiency” as the quality or state of being defective or lacking some necessary quality or element, a shortage of substances necessary to health.

C. Refusal to Participate in “Good Faith” Cooperative Dialogue

123. Under information and belief, all of the Plaintiffs were not given the opportunity to engage in “Cooperative Dialogue” with the City as required by CHRL §8-102, wherein the City made a “good faith” effort either in writing or oral dialogue to discuss with Plaintiffs their individual accommodation needs, the potential accommodations could address each Plaintiff’s needs, and neither were any alternative accommodations provided by the City.
124. Under information and belief, no one at the City provided any detailed information regarding how the requested Authorized Accommodations would pose any difficulty for the The City to pay for or implement.
125. Under information and belief, all Plaintiff’s received rejection letters or emails that contained the same or similar rejection language either rejecting their request because they did not have a “sincere religious belief” or because the request would put an “undue burden” on the City.
126. Mayor de Blasio admitted that

COUNT VI

Constructive Discharge – Hostile Work Environment

127. Plaintiffs repeat, reiterate, and reallege each and every allegation above and incorporates all statements herein by this reference, specifically all statements made by then Mayor DeBlasio in Exhibits 18a-d.
128. All of the Plaintiffs have been placed on leave without pay because of their “perceived disability” as Vaccine Deficient and were refused the Authorized Accommodation in a

hostile work environment where their faith was disregarded along with their “human rights” under OSHA.

129. Under information and belief all have collectively refused to provide all Plaintiffs the Authorized Accommodations.

COUNT VII

Discrimination & Harassment

130. Plaintiffs repeat, reiterate, and reallege each and every allegation above and incorporates all statements herein by this reference.
131. Under information and belief, the City’s collective agreement to place all Vaccine Deficient employees in their companies on leave without pay before the Christmas holiday and to withhold compensation benefits and to terminate them all on or before December 31, 2021 was done to harass and to retaliate against Plaintiffs based on their “perceived disability” as suffering from a Vaccine Deficiency.
132. The City required each Plaintiff to apply and/or reapply for religious exemptions, when they knew all along that they were never going to provide any accommodation that would allow any of the Plaintiffs to remain in their jobs either within their facilities or to work from home.
133. The City knew or should have known that OSHA pre-empted all of their Vaccine Orders and that the hostility express toward the faith of employees did not absolve the City from its Duties under OSHA.
134. The City’s acts of allowing Plaintiffs to make two and three requests for religious accommodations that were never going to be provided were acts of harassment and hostility in violation of the NYCHRL.

135. According to STAT, an online reporting database that gathers data from the Federal Health Resources and Services Administration, New York City received Billions in Federal Covid Relief Funding to pay for necessary equipment to provide to employees to make the workplace safe.⁴
261. Plaintiffs' claims of retaliation also set forth facts to substantiate a claim for harassment pursuant to the NYCHRL.
262. On November 5, 2021, OSHA published its final Health Emergency Temporary Standards for Covid-19 Health Care Staff which states as follows:
- § 1910.501 Vaccination, testing, and face coverings.
- (a) Purpose. This section is intended to establish minimum vaccination, vaccination verification, face covering, and testing requirements to address the grave danger of COVID-19 in the workplace, and to preempt inconsistent state and local requirements relating to these issues, including requirements that ban or limit employers' authority to require vaccination, face covering, or testing, regardless of the number of employees.
- Note 1 to paragraph (a): This section establishes minimum requirements that employers must implement. Nothing in this section prevents employers from agreeing with workers and their representatives to additional measures not required by this section and this section does not supplant collective bargaining.
263. In the final OSHA Health ETS, it expressly exempts person from the OSHA vaccine requirements those who have a disability or a sincerely held religious belief, practice or observance that conflict with the vaccination requirement.
264. Defendant and each of them have recklessly disregarded the Human Rights of all Plaintiff by over and over denying them their right to safety equipment mandated by OSHA to be provided to them without exception and/or to the available reasonable accommodations that could have made the workplace safe.

⁴ See News Report "New York Has Received billions in Covid aid...." - <https://spectrumlocalnews.com/nys/central-ny/ny-state-of-politics/2021/11/03/new-york-has-received-billions-in-covid-aid>

REMEDIES

- a. Plaintiffs seek immediate reinstatement to their positions at the same pay and seniority.
- b. Plaintiffs seek the appropriate workplace safety controls that will allow them to work their jobs safely either remotely for those who can and for those who need respirator equipment to be provided with a PAPR safety equipment for when Plaintiffs come in close contact with the public, so that they can perform their jobs.
- c. Plaintiffs seek back pay for the time separated from Defendant until return to work.
- d. Loss payments into retirement fund and reinstatement of loss time into retirement calculation,
- e. Mental and emotional distress damages.
- f. Plaintiffs seek punitive damages in an amount to be determined by a jury.
- g. Attorney fees and costs.

Dated: April 19, 2022

Respectfully submitted,

/s/ *Donna Este-Green*

Donna Este-Green, Esq. Bar#2517688

Attorney for Class Plaintiffs

25 Fairway Dr.

Hempstead, NY 11550

Women of Color for Equal Justice

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Jo Saint-George, Esq. (Pro Hoc App.
Submitted)

Chief Legal Officer

Women of Color for Equal Justice

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Bowie MD 20721-1246

jo@woc4equaljustice.org

COMPLAINT – EXHIBIT LIST[1:22-cv-02234](#)

Women of Color For Equal Justice v. City of New York

Attachment#	Attachment Drop Down Selection Name	File/Doc. Name
1.	Exhibit	Ex. #1 – DeBlasio Press Release
2.	Exhibit	Ex. #2 – Affidavit PL. Dello Ioio
3.	Exhibit	Ex. #3. – Affidavit PL. E. Loiacono
4.	Exhibit	Ex. #4. – Affidavit PL. J. Harding
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15.	Exhibit	Ex. #15 – Mayor EO 75 8-2-2021
16.	Exhibit	Ex. #16 – NYCDOH Order 8-10-2021
17.	Exhibit	Ex. #17 – NYCDOH Order 8-24-2021
18.	Exhibit	Ex. #18 – Mayor EO 78 8-31-2021
19.	Exhibit	Ex. #18b – Mayor Transcript 9-23-2021
20.	Exhibit	Ex. #18c – Mayor Transcript 9-8-2021
21.	Exhibit	Ex. #18d – Mayor Transcript 8-31-2021
22.	Exhibit	Ex. #19 – NYCDOH Order 9-12-2021
23.	Exhibit	Ex. #20 – NYCDOH Order 9-28-2021
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25.	Exhibit	Ex. #22 – NYCDOH Order 12-13-2021
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27.	Exhibit	Ex #24 - Mayor Transcript 10-21-2021
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29.	Exhibit	Ex. #26 – PL. Expert Affidavit Baxter Montgomery, MD
30.	Exhibit	Ex. #27 – PL. Expert Affidavit Dr. Ealy

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Women of Color for Equal Justice, Remo Dello Ioio,
Elizabeth Loiacono, Suzanne Deegan, Marita Romero,

(b) County of Residence of First Listed Plaintiff Mark Ayne, Carla Grar
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Donna Este Green, Esq.
Women of Color For Equal Justice
25 Fairway Dr. Hempstead NY 11550

DEFENDANTS

City of New York, Mayor Eric L. Adams, Department of
Health And Mendal Hygige, Comissioner Ashwin Vasan,

County of Residence of First Listed Defendant New York
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

Does this action include a motion for temporary restraining order or order to show cause? Yes ☐ No ☐

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|---------------------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input checked="" type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

4/19/2022

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.7 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration ☐

I, _____, counsel for _____, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

☒
☐
☐

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
 the complaint seeks injunctive relief,
 the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? ☐ Yes ☒ No
- 2.) If you answered "no" above:
 a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? ☐ Yes ☒ No
 b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? ☒ Yes ☐ No
 c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received: _____

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? ☐ Yes ☐ No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.



Yes



No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?



Yes

(If yes, please explain



No

Donna Este-Green Bar #2517688

I certify the accuracy of all information provided above.

Signature: _____

Eastern District of New York

Civil Action No.

Signature of Clerk or Deputy Clerk

RIDER

Defendant Name: The City of New York
100 Church Street
New York, New York 10007

Defendant Name: Mayor Eric L. Adams
City Hall
New York, New York 10007

Defendant Name: Department of Health and Mental Hygiene
125 Worth Street
New York, New York 10013

Defendant Name: Ashwin Vasan, MD, PhD
Commissioner of the Department of Health and Mental
Hygiene
530 First Ave.
New York, New York 10016

COMPLAINT – EXHIBIT LIST[1:22-cv-02234](#)

Women of Color For Equal Justice v. City of New York

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15.	Exhibit	Ex. #15 – Mayor EO 75 8-2-2021
16.	Exhibit	Ex. #16 – NYCDOH Order 8-10-2021
17.	Exhibit	Ex. #17 – NYCDOH Order 8-24-2021
18.	Exhibit	Ex. #18 – Mayor EO 78 8-31-2021
19.	Exhibit	Ex. #18b – Mayor Transcript 9-23-2021
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Transcript: Mayor de Blasio Appears on the Brian Lehrer Show

September 24, 2021

Brian Lehrer: It's the Brian Lehrer Show on WNYC. Good morning, again, everyone. And now it's time for our Friday Ask the Mayor call-in, my questions and yours for Mayor Bill de Blasio at 646-435-7280 or tweet a question, and it will jump right out at us if you use the hashtag, #AsktheMayor, #AsktheMayor. Good morning, Mr. Mayor. Welcome back to WNYC.

Mayor Bill de Blasio: Good morning, Brian. And boy, do I have breaking news for you. It's five minutes ago. I think that's as breaking as it gets. As of now, as of this exact moment, New Yorkers in a number of different categories are eligible for the third booster shot, Pfizer only, for the COVID vaccine. This is for Pfizer only. For anyone who has had at least six months since their second shot. Here are the categories, it is really important for people to hear this – if you are 65 or older, if you're in a long-term care facility or nursing home, if you are between 18 and 64 years old with an underlying medical condition, or between 18 and 64 years old and you're a frontline worker or health care worker doing direct work with the public. In all those categories, people are now eligible, literally now. So, you can go online VAX4NYC – that's V-A-X, number four, N-Y-C – .nyc.gov. Either make an appointment right now for the coming days or you can get a list of all the City-run sites, and you can walk-in today to any City-run site if you're in those categories. And you – again, if it's been more than six months since your second shot, and you can get that Pfizer booster shot starting literally right now today.

Lehrer: That is good news for many people. Now about those first shots, the vaccine mandate for teachers takes effect on Monday, as, of course, you know. And their union, the UFT, is warning of staffing shortages because of some meaningful number of teachers who won't comply. And I guess they'll be fired. Do you have an estimate and a plan for maybe thousands of substitute or replacement teachers beginning Monday?

Mayor: I want to frame this real quick. This is something we worked on, obviously, for weeks and weeks. There's been plenty of time for teachers, staff to get vaccinated. In fact, what we see is people getting vaccinated at a very, very high level. There's all of today, there's all of tomorrow. There's all of Sunday, even into Monday to get vaccinated. So, one, the vast, vast majority of teachers and staff are making the decision to get vaccinated, be part of the solution, continue with their work. What we're seeing so far is a very small number of requests for medical or religious exemption. Only in the hundreds have been approved so far. And again, there's well over 100,000 teachers and staff, and we're going to work with anyone who needs to get vaccinated between now and the deadline. If they don't get vaccinated, they consciously make the choice not to get vaccinated, they will be suspended without pay, but there is a process. It's all been delineated by the arbitrator of how to address that. If someone wants to come back, there's a way to do that. If they don't, then there are consequences. But the

EXHIBIT 1

fact is we've been planning all along. We have a lot of substitutes ready, but I think the big story here is going to be that the vast majority, overwhelming majority of teachers and staff are going to come in vaccinated to serve our kids next week.

Lehrer: But if you have a 97 percent vaccination rate, you're still going to need thousands of replacement teachers.

Mayor: And we have them. We've talked about this all since last year, we had an extraordinary recruitment effort for last year when we had – obviously last year we had about 25 percent of our teachers home on medical accommodation. We had to recruit a huge number of new teachers. We did that. They're overwhelmingly vaccinated themselves. They're available, they're ready. We have a number of people in the school system who obviously are certified teachers playing different roles right now, but who can go back into classrooms to help. I think the bottom line here is a lot's going to happen between now and Monday, but beyond that, we're ready even to the tune of, if we need thousands, we have thousands.

Lehrer: "If we need thousands, we have thousands." Now my colleagues in the WNYC and Gothamist newsroom have a story out today that details how one high school in Brooklyn dealt with a COVID-19 incident at a professional development meeting the week before school started this month. Apparently, some staff were unmasked at this event and one of them later tested positive. There were 59 close contacts identified, 21 staff members had to quarantine going into the first day of classes. Parents and teachers were notified about the case, but not about the scale of how many staff were affected. And what the teachers in public health experts, my colleagues talked with for that story, told them was that the incident really highlights how these gaps in the City's protocols can leave a lot of people in the dark about what's really happening at their schools. So, how would you comment on that?

Mayor: Well, I don't want to see that and that wasn't our experience all of last year and all during summer with Summer Rising. Anytime – first of all, people, all our staff, all our teachers have to follow protocols. This is why we want a totally vaccinated system, first of all, for everyone's safety. Second, when you're in a situation where you need to wear masks, you have to wear a mask. And that's been overwhelmingly the case. If there is a contact and it leads to a bigger situation in the school, that's what Test and Trace does, they analyze that, then, of course, have to immediately alert the school community. And that's what happened in the vast, vast majority of instances. If it doesn't happen in any case, we have to fix that, and it's not acceptable. I was a public school parent. Parents need to know, the whole school community needs to know immediately when something like that is confirmed.

Lehrer: What the public health experts in that story said, is that parents and staff would be much more informed if the City posted the vaccination rates for each school and that you could do that without violating any employee confidentiality laws, if you aggregated it so that no single individual teacher or staff member was identifiable. Sound like a good idea to you?

Mayor: Well, I'm confused by the question. I want to make sure I'm understanding it. I mean, as of – you know, Monday is the day where everything's going to be sorted out. As of Tuesday, the only adults who are going to be in a school building are people vaccinated. So, that's where I'm a little confused by your question.

Lehrer: Right. And I see, I understand that maybe your answer does address that concern because the vaccination rates would automatically be a hundred percent. So, fair enough.

Mayor: Right –

Lehrer: All right. The crisis on Rikers Island. You gave me breaking news. I'm going to give you some breaking news. Let's see, I'm seeing from NY1, I imagine it's around generally, the federal monitor for Rikers Island is calling for outside security help for the troubled jails complex. It says a federal judge is holding an emergency hearing this morning. Are you aware of that? And what would your position on that request be?

Mayor: Well, I think the way you phrased it is overly broad from what I've heard. And no disrespect. And what I've heard is the monitor has suggested bringing in a consultant. There is no outside security element that can come in appropriately. What we're doing is relieving some of the pressure on the Correction officers by taking some discrete functions off them, including outside like arraignment at courts, which will be handled in some cases more by NYPD or perimeter security. But the real issue is to get all the Correction officers where they're needed most in the facilities and end the absenteeism. We have taken on the union that, bluntly, was encouraging people not to work. They're now changing their tune because we brought a legal action against them. We are supporting the vast majority of officers who are doing the right thing with additional incentives and support. What we're seeing now is people are starting to come back to work in much higher numbers. We're also reducing the population immediately, working with the State. So, the federal monitor – we've been working with a monitor for years now and have found a lot of solutions that way, but I think what they're suggesting is a consultant coming in, not additional different types of officers.

Lehrer: And more breaking news. Eric Adams was just asked about whether the Mayor should – you should visit Rikers, a little while ago this morning. And Eric Adams said you should do a walkthrough, and "he should walk through with his Chancellor to see what a failing education produces." He said, "he should bring all of his top commissioners and deputy mayors to walk through and say, look what failed policies have produced in our cities." That's a quote from Eric Adams a little while ago. And, of course, part of this is hooked to the fact that you've been repeatedly asked why you haven't visited Rikers yourself since 2017. So, what would you say to any of that?

Mayor: Well, I'll go to Rikers Island. I've said this repeatedly. What I've spent a lot of time on all this the last week or two is fixing problems, one after another. There's been an immense number of meetings and calls and work with the State to get these issues fixed. You know, I understand why people say go visit. I understand very powerfully what the problems are and I'm trying to fix them right now. And that is more important to me than anything. But next week I'll go visit. I think it's time because we've been able to address a number of issues. And I want to see if these solutions are working or whatever other things we have to do. To the bigger point Brian, on the one hand, I think what Eric Adams is saying is inherently true. That we have a whole long way to go to address why we see particularly young people end up in crime and violence and incarceration. I was at someplace this morning in Southeast Queens, is part of the solution. Amazing organization, 100 Suits, a community-based organization now doing Cure Violence and Crisis Management work to stop crime before it happens, stop violence before it happens, help young people on a positive path. I'm a believer in the community-based solutions to violence, not just policing, community-based solutions to violence. And we've been investing intensely in this. And I think this keys in on what Eric's saying. We're going to need a lot more of that to ultimately reduce our jail population much, much more. It starts with reducing arrests, which is what we've been doing now for years. And, but for COVID, we would have the lowest jail population in many, many decades right now. But I believe we can get at those root cause solutions. But right now, what we've got to do of course is create a more peaceful, safe environment at Rikers. And that means getting hundreds and hundreds of inmates out quickly, which we're doing with the State. And getting the officers back to work.

Lehrer: Before we go to calls, one more thing on this. An 11th and 12th person this year died at the jail since we last spoke last Friday, as of course, you know. The 11th was Isaabdul Karim, a 42-year-old man in a wheelchair who contracted COVID in the overcrowded conditions after being reincarcerated there only for the technical parole violations of missing meetings and smoking marijuana. The parole issue is on the State, but the overcrowding is on the City. Why wasn't that dealt with earlier when the Delta variant was spreading?

Mayor: My friend, that is a wildly inaccurate statement, I really respect you, but I've got to throw a real flag there. The overcrowding is on the City? That is a fundamental misunderstanding of what's going on. The overcrowding is because COVID led to an absolute disruption in the criminal justice system. I've been begging the State to get the courts up and running. We've got well over a thousand people awaiting trial over a year.

we can't just release them. These are serious charges, including violent charges. They need to have a trial, but we have no trial system working. The court system is not working. So, you just can't put on the City, something that is not the City. We need to fix what we can fix. We need to get the officers there. We need to address a whole host of things there. But the reason we're making progress in large measure is finally, the State is starting to respond and I want to thank Governor Hochul for that. And we're getting action from the Legislature, the Less Is More law is what we needed all along. The technical parole violators should never have been in Rikers to begin with. That individual should never have been in Rikers. But finally, it took the Legislature to act and this Governor to sign this law to finally get us that relief. So, I really would beg of you, because I think not only are you a very good and smart and decent person, but your station thrives on trying to get people a bigger truth. Can we stop talking about everything as only actor as the City of New York, when in fact it's much more complex. And we would help the public to understand how these pieces fit together so we can solve them. The State needs to feel the pressure to get the courts up and running for the good of all.

Lehrer: But let me follow up on one aspect and you tell me if you think this is unfair or isn't really on the City. Because I understand that you recently took steps to reopen parts of the jail complex, to help ease the overcrowding and also put back into place new rules so that people wouldn't stay in the crowded intake area for so long. If that's the case, why couldn't that have done – been done earlier considering the COVID conditions? And maybe we see the result of that among all other things with the case of Mr. Karim?

Mayor: Very, very fair question. And I'll put it this way. We were trying to solve for the crisis of officers not showing up for work. And again, very sadly aided and abetted by a union, telling people not to work and then leaving their fellow officers in the lurch to do double and triple shifts, very cynical. We were trying to deal with that crisis. That crisis demanded having as concentrated a physical situation as possible. We're trying to get off Rikers. We've been closing buildings on Rikers. We've been reducing incarceration now for eight years. The goal was to have as little presence in Rikers as possible. Rikers is broken. It's not a place where people should be. So, we were working on the imperative reducing incarceration on Rikers. We were working on the imperative to have fewer physical spaces so you needed fewer officers to cover them. And COVID levels were very low. We saw the COVID levels go up a bit. They thank God are still, you know, they're still, when you compare to where we were in the past, the COVID levels on Rikers are something that we fundamentally believe we can turn around quickly. But we saw a new problem emerging. And the intake process was taking too long. So we said, okay, now we have to compensate the other way, open up these additional intake centers. What that has done is immediately reduced some of that crowding. thank God. And also the intake timelines are shooting downwards. We have to be under 24 hours. That's clear. We're getting now down to 16 hours, 10 hours in a lot of cases to get people through intake and reduce that crowding. So, it's a constant set of shifts and adjustments, according to what we're encountering. But I need to say the last part, which is unless we can get people out of jail the whole thing is a catch 22. The State is finally, and I give them credit, it's finally taking out large numbers of folks who shouldn't be there to begin with. And we will move immediately, when we can get someone out for whatever reason, we want them out immediately. When we had that decision by the Governor the other day, we moved people out within 24 hours, out of Rikers all together. But until there's a court system, we can't move people awaiting trial. This is the conundrum. We've begged the court system to schedule 500 cases immediately. There's well over a thousand that have been waiting a year just for their trial. So, we've got to get this piece to give, or we just continue to have a circular reality.

Lehrer: Jan in Manhattan, who says her daughter is a teacher in Brooklyn. Jan, you are WNYC with the Mayor. Hello.

Question: Hello, Mr. Mayor. Yeah, you just said several times that there are plenty of people in the substitute teachers. I'm actually the substitute caller for my daughter who's teaching right now. I would like to say that there are just no teachers. She said they're already short-staffed in her school. She's a special ed teacher in Brooklyn. And so when, you know, someone calls in sick, they redistribute the kids rather than to have a substitute teacher come in. It happens all the time. And she hears about this similar

Mayor: Well, Jan, I appreciate the question. Look, this is – I'm sure there's individual situations where something has to be done better. But then there are just pure facts from what we experienced last year. We went through a whole school year with 25 percent of the teachers at home. And we had to bring in thousands and thousands of new teachers and substitute teachers who had worked with us before, doing a lot more work with us. And it happened, it happened. Everyone saw it, it happened, you know, many, many thousands who are ready to go again. So, I'm sure we'll have to make adjustments along the way, but there's no lack of people who want to teach. And again, what we're seeing and I want to emphasize, you know, even when there's differences that we may have with the unions involved, every union has pushed hard for people to get vaccinated to their credit. And the vast, vast majority of teachers and staff have gotten vaccinated and a lot more are getting vaccinated right now. So yes, we'll have to use some substitutes. There's no question. But we don't lack for substitute teachers. And we'll make the adjustments. And if we have to bring even more, we'll get even more.

Lehrer: Also, on the vaccination requirement for teachers beginning Monday, a listener on Twitter asks, can you ask the Mayor what religious slash medical exemptions will mean? And will they be allowed to report to schools? And I think we, you know, people generally know some of the medical exemptions. What are the religious exemptions? Do you have specific religions that don't allow vaccinations?

Mayor: Yeah. The best example is Christian Scientists religion, which is, you know, has been known for decades and decades to oppose vaccination. Someone is proven to be a member of that religion, that's something that predates the pandemic, is not someone claiming something a new. You know, someone's a member of that religion, that's the kind of thing that would lead to a valid exemption. Now my understanding is there've been very few, if any cases, that have met the standard that the arbitrator set for the religious side. There have definitely been, as I said, hundreds on the medical exemption side. But only hundreds out of a staff and teaching core of well over a hundred thousand. So, if someone does -- this all came out of the arbitration decision during the arbitration process with the union. If someone meets the religious or medical standard, they continue to work, but not in a school setting because the school settings have to be 100 percent all vaccinated adults. But what we're seeing so far is it's quite a small number of people in the scheme of things. And quite a few, quite a small number of applicants. I think that's really important, Brian. Everyone projects in advance, everyone worries. I don't blame – and the media puts out all sorts of scenarios. Here we are. It's Friday, you know, the mandate takes effect next week. We've had relatively few applications even, for medical or religious exemptions.

Lehrer: Caroline, in the Bronx. You are on WNYC with the Mayor. Hi, Caroline. Do we have Caroline? Oh, I know, because I have to click her on the air first.

Question: Hello, can you hear me?

Mayor: That's you, Brian.

Lehrer: Yeah, that one's on me, everybody. Caroline you're on WNYC. We have you now.

Question: Thank you so much for taking my call. I'm the single mother of a four-year-old who's supposed to enter kindergarten next year. I believe he would have benefited from accelerated education. He can already read and write words. And I'm quite concerned that we don't know what is supposed to replace the accelerated program. I was under the impression that the details of Enrichment For All would be coming out this month. Our school district, our zoned school has about 35 percent of the students passing the State tests. And I'm honestly thinking about leaving the city if there's not something that's going to keep my kid engaged and off Ritalin.

Mayor: Well, I appreciate the question. And this again, I was a public school parent with kids who, you know, really learn really well. And I wanted to make sure just like you

Caroline, they had opportunity. And the new approach – this is Brian, under the category historically called Gifted and Talented for better or worse. But really I think accelerated learning is a great phrase and a better phrase in many ways. We've got thousands, even tens of thousands of kids at each grade level who in the early years, who can learn at least in one subject, in an accelerated fashion. It is September. It's still September. By the end of September, we're announcing a plan, but it's going to be a very different approach. Because Gifted and Talented as it was structured before, here's a really powerful number. Out of 65,000 kindergarten students, only 2,500 got that Gifted and Talented approach. It was extremely exclusive. We want an inclusive approach to reach the tens of thousands of kids who have special aptitude in at least one subject, if not many. That's the plan we'll be putting out by the end of the month. So, Caroline, I think you're going to see something that you'll like, because there will be regular opportunities for kids who have those special aptitudes to be engaged in many, many more kids than were previously given the opportunity.

Lehrer: Vivi in Brooklyn, you're on WNYC with the Mayor. Hello, Vivi.

Question: Hello. Hello. Thank you for letting me ask a question. I'm calling about tenant harassment. 20 years ago, the tenant – the landlord put tenants in here to harass us into moving out of the building because we've been here a very long time and the rent is low. And my son ended up dead. My son approached one of their sons. They followed my son when he left. My son ended up dead. The tenants are still here harassing me. It's been 20 years. They've been harassing me. They follow me when I go out, they set my door on fire. They bang my door hammers. I've called your office for years. And finally, the other day I got an answer and they told me about the tenant harassment prevention task force, but they gave me the wrong number. But I found an email address. I emailed them, still, never get an answer. And every number that they gave me is a wrong number.

Lehrer: Mr. Mayor? Can you help this –

Mayor: Well, I'm really – first of all, I'm very, very sorry for everything you've been through. It sounds horrible in so many ways. But I also don't understand how so many people didn't manage to give you the right information. And I can only apologize on behalf of the City for that. But I want you to get the right person talking to you today. So, we have a Tenant Protection office that's very aggressive. We can get people a lawyer, get them legal assistance. We can deal with any number of situations. And some of what you're saying might even rise to being a law enforcement issue if you're being harassed or followed. So, please give your information to WNYC. We'll have a senior person reach out to you today from Tenant Protection and immediately see what we can do to help you.

Lehrer: Vivi, thank you. Thank you very much. Mr. Mayor, I want to acknowledge that there's a lot of reaction on Twitter, a lot of it from members of the New York City press corps to you saying earlier in the segment that you are going to visit Rikers Island next week. I guess the follow-up question is, what took you? Because there was so much pressure for you to visit from so many quarters in the weeks since this crisis really came into at least public view, and many people would have considered it an act of leadership and maybe even some pressure on the union, I'm just throwing that in, I don't know if you think they're calling in sick and inappropriately to show up yourself as this was starting earlier on, why didn't you?

Mayor: Well, Brian, it's a perfectly fair question, which honestly, I've answered a bunch of times, and I'll answer it again, I am happy to explain the thought process. First of all, in terms of the union, what the union needed to see was a legal case brought against them for violating state law by encouraging people to not come to work. And the moment we show that we were resolute about bringing real consequences to bear, the union changed their tune and started calling upon the workers to show up for work. So, that was its own approach. In terms of the reality of how you change I think for, if you're talking about an inmate in Rikers or we're talking about an officer in Rikers, what they needed me to do, as we saw these problems emerge was get a host of solutions going. There are different approaches to leadership. Some people, honestly, bluntly are heavy on the symbolism. That's great. I get it. My approach for better, for worse, is I want to

solve the problem, and that took a lot of time and energy, but we are getting the changes we need, and the situation is changing as we speak. I gave you some real facts before the intake, it's going much more quickly, therefore people are treated better, there's much less congregating, which is better in terms of addressing COVID. We're bringing in additional personnel. We're getting people back to work, we put real sanctions in place and real incentives in place. This all took a lot of work and I have to work with a number of agencies, and I have to work with the State to get all these pieces moving. That's where I put my time and energy. Now that I feel that work is moving it's time to go out, but I am certain what I'm going to see is what I already have heard such very vivid, clear reporting on what the continued challenges are, but I'll go and do it. I think to conclude, look, I get the, when you're sort of head of state and head of government, you know, I get this very complex interplay of perception and reality and symbolism versus substantive work, but I've got to do what I think is right in the end. I don't care how many people call for something, I got to do what I think is right. The right thing to do is fix the problems and put my best energies there. Now I'll go see if those solutions are working.

Lehrer: Can you tell us the date and who'll be going with you?

Mayor: Well, it's next week and we'll figure out a date. And certainly, the First Deputy Mayor who has been leading the charge on a lot of these changes and the Correction Commissioner. This is focused on fixing the issues that we're addressing in Rikers. I understand what you said earlier from Eric Adams about the bigger reality in our society, we've been working on that for eight years and that's why we have 3-K for All and Pre-K for All, and the investments in Cure Violence Movement and Crisis Management System and everything else. I would claim that very clearly Eric Adams point is very well-taken, and for eight years we've been trying to make the changes to reduce incarceration. It's gone down rapidly on my watch, reduce arrest, all the things that Eric's talking about, that's what we've been doing for eight years. Now, I'm going to pass the baton to him, and he'll have a chance to expand upon it. But right now, the people who have to go with me are the people who are helping to solve the problem on Rikers right now.

Lehrer: Thanks, as always Mr. Mayor, talk to you next week.

Mayor: Take care, Brian.

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AFFIDAVIT
R. DELLO IOIO

EXHIBIT 2

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

R. DELLO IOIO, being first duly sworn on oath, deposes and declares as follows:

1. I am above the age of 18, and I am competent to make this affidavit.
2. I am a former Home Instruction teacher since September 2015 for the New York City Department of Education (DOE) within Home Instruction Schools located at 3450 East Tremont Avenue, Bronx, NY 10465 DOE territory.
3. Prior to serving as a Home Instruction Teacher, I worked in various other teacher capacities within the DOE for a total of approximately 17 years until I was constructively discharged as a teacher on 3/10 2022 for refusing to submit to the Covid-19 vaccine. See **Exhibit A**
4. Home Instruction teaching is when a teacher goes into the home of a student and provides instruction or utilizes online computer technology to instruct a student wherever they are (home or hospital) due to some grave injury or illness the child may have. Students in the home instruction program do not attend school in the traditional school building.
5. However, I was placed on leave without pay starting 10/4/2021 after exercising my right to request to be exempt from the Covid-19 requirement issued by the New York City Department of Health.
6. On 9/1/21, I received an email from the Division of Human Capital that I should receive a vaccination by 9/27/21. See **Exhibit B**
7. On 9/18, I received an email from the Division of Human Capital that if I wanted to be exempt from the vaccine requirement that I was required to submit a request for a Religious or Medical Exemption through the DOC online automated portal Solas. No due date was stated. I was never notified by my principal or union of any deadline. See **Exhibit C**
8. The Division of Human Capital kept sending emails that vaccination proof should be submitted by 9/27/21. There was no religious exemption deadline stated.
9. On 9/24/21, I was emailed by the DOE Vaccination Team to submit vaccination proof. It was stated in the end, "If you have an approved exemption or leave your status will be updated shortly." See **Exhibit D** No deadline was stated.

10. In all my correspondences were with the DOE. I was never notified by the UFT how to construct a religious exemption. I was never offered any suggestions through the UFT about the Arbitration Agreement that they made with the DOE.
11. I was never given any direction or information by my supervisors, the DOE or UFT how to ask for a reasonable accommodation. The Arbitration Agreement of 9/10/21 was never properly explained to us. My Union Representative. never got involved.
12. I was never offered any safety equipment that would keep me safe from the airborne virus that causes Covid-19 and neither did any discuss what could be done to modify my job to make it safe for me and all the children that I taught.
13. In my entire 17 years as a teach for the DOE, I had never received any workplace safety training and neither was I instructed by the OSHA regulations on how to achieve and maintain a safe workplace during a communicable disease Pandemic.
14. All that I was told through the various communications was that it was "unsafe" to allow unvaccinated DOE employees into any of the DOE schools or buildings. However, I did not work in a DOE building, so it was my understanding that the vaccine requirements placed on DOE employees really did not apply to me.
15. Nevertheless, I submitted a request to be exempt from the vaccine requirement by submitting, as was instructed by DOC, a Religious Exemption on 9/20/21 through this online application called Solas. In my submission I explained that the basis for my refusal to submit to the DOE vaccine requirement was based on my Christian faith adheres to the Bible and its teaching which these vaccines violated. Mostly the fact that aborted stem cells were involved in the origination of the three Covid-19 shots makes their reception sinful to me. See **Exhibit E**
16. On 9/22, my request was denied through email by HR Connect online portal. See **Exhibit F**
17. No one ever called me or email me to ask any questions about how I thought I could continue to do my job and keep myself safe and the students that I teach safe during the Pandemic. There was no human dialog between myself and anyone at the DOE.

18. The denial letter, however, stated that my request for vaccine exemption was denied because my written submission failed to meet the criteria for a religious based accommodation. However, I was never provided any information regarding what the "criteria" was that would provide me with an accommodation.
19. The denial letter stated, in summary:

Per the Emergency Order by the New York City Commissioner of Health, unvaccinated employees cannot work in a Department of Education (DOE) building or other site with contact with DOE students, employees, or families without posing a direct threat to health and safety. We cannot offer another worksite as an accommodation as that would impose an undue hardship (i.e. more than a minimal burden) on the DOE and its operations. See **Exhibit G**
20. Although I was denied, I learned that other teachers were allowed to remain on the job unvaccinated and were allowed to teach students through the computer online remote education option.
21. I was only given one day to submit my appeal. Also, there was no directive why it was denied. Therefore on 9/23/21 I submitted my appeal with a note in the box that I would submit supporting documentation at my arbitration hearing. See **Exhibit H**
22. On 9/30/21 my appeal was denied with no reason why it was denied. I was never given a hearing. See **Exhibit I**
23. I retained a lawyer and on 10/8/21, my lawyer Joshua Pepper wrote Human Resources to inquire why I was never permitted a hearing to plead by case. See **Exhibit J**.
24. On 10/8/21, Karen King from the United Federation of Teachers responded back that not all individuals were granted a hearing. See **Exhibit K**
25. On 11/19, I received an email from the Division of Human Capital that I could re-appeal through a citywide panel. Directions were given how to resubmit it through Solas. See **Exhibit L**
26. I have been placed on Leave Without Pay since 10/4/21 See **Exhibit M**. On 12/2/21, I submitted a re appeal to the City-Wide Appeal Panel with additional information explaining that my teaching assignment was remote and that there would be no undue hardship to allow me to continue to work as I had previously done throughout the pandemic.

27. Despite the additional information about the remote state of my teaching, on 1/7/21, I received an email to provide additional information by 1/14/22.
See **Exhibit N**.
28. During the several month-long process, I received weekly notices from the DOE instructing to get vaccinated.
29. After the denial, I filed a complaint with the EEOC claiming wrongful termination, harassment based on my religious faith and based on my health status as an unvaccinated person under the ADA.
30. Then on March 7, 2022, I received the email stating that I would be subject to termination, but I have not received a "good cause" disciplinary action/charge from the DOE pursuant to New York City Education Law 3020a. to permanently terminate me.
31. On 11/15/21 and 11/28/21 the Court determined that the agreement between the DOE and the City only allowing religious exemptions for the church was unconstitutional.
32. Since 10/4/21, this experience has put a tremendous amount of emotional stress on my life in ways that I could never imagine. The choices given either go on leave without pay or take a severance which included medical or be terminated and lose everything has devastated me. I own a house, I am not receiving any financial assistance. I have a mortgage to pay. Worrying about food, expenses have been overwhelming. I have had to depend on my family and friends to get me through this terrible ordeal. I have been depressed and handicapped because I am not allowed to work to support myself.
33. Since this vaccine mandate has taken effect, I am having trouble seeking employment in education. There are no employment options due to the fact I am unemployable in the city. There are no other alternatives but to leave the city and seek employment in another state or region. I have invested my time and my livelihood here in the city and it has destroyed my opportunities to succeed in this field.
34. Allowing me to continue to work remote through online computer equipment does not place any undue hardship on the DOE.
35. Also, the DOE has granted other teachers religious exemptions from the vaccine and have allowed them to continue to work in the schools.

36. I have recently learned through my contacts with Union leadership that the DOE has a shortage of approximately 1,000 teachers needed for remote online teaching because there are many more students demanding online instruction, but yet they are hiring new teachers and granting them the remote work positions, yet the DOE denied me the ability to continue to work remote.

I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct.

Dated this 15 day of April, 2022.

Remo Dello Ioio

R. DELLO IOIO

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

Subscribed and sworn to (or affirmed) before me on this 15 day of April 2022, 2021, by R. DELLO IOIO, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Witness my hand and official seal.

Signature of Notary Public

[Signature]
KEVIN T. MCCARTHY
Notary Public, State of New York
No. 02MC6320693
Qualified in Rockland County
Commission Expires March 18, 2023

Division of Human Capital <DHC@schools.nyc.gov>

Sat 9/18/2021 10:49 AM

To: Division of Human Capital <DHC@schools.nyc.gov>

Dear Colleagues,

We are writing to let you know that DOE staff members may now apply in SOLAS for a COVID-19 Vaccination Mandate Related Exemption or Accommodation.

This COVID-19 Vaccine Related Exemption and Accommodation application is for:

- Religious Exemption requests to the mandatory vaccination policy
- Medical Exemption requests to the mandatory vaccination policy
- Medical Accommodation requests where an employee is vaccinated but is unable to mount an immune response to COVID-19 due to preexisting immune conditions.

Applications should be made via the following process:

- Applications must be made using the [Self-Service Online Leave Application System \(SOLAS\)](#).
- In SOLAS, employees should select the initial option to "Request Accommodation" and then the option to apply for an Exemption and Accommodation for COVID Vaccine-Related Reasons, and then indicate the category for the application.
- All applications require supporting documentation which must be submitted at the time of application.

More information can be found on the [Coronavirus Staff Update InfoHub page](#).

Thank you,

NYCDOE Division of Human Capital

Your application for a COVID-19 Vaccine Related Exemption or Accommodation has been received.

EXHIBIT B

solas_donotreply@schools.nyc.gov <solas_donotreply@schools.nyc.gov>

Mon 9/20/2021 8:32 AM

To: Delloloio Remo (09X505) <RDelloio@schools.nyc.gov>

09/20/2021

Case#: A75876

File# 0755802

EMP ID: 381976

Dear REMO DELLO IOIO,

Thank you for submitting your application online!

Type of Application: COVID-19 Vaccine Related Exemption or Accommodation

Application Communications:

During your application process, all communications will be sent to your DOE e-mail account. You must continue to check your DOE e-mail, even if you listed a different preferred email address.

Changes to Your Application:

Unfortunately, you cannot make changes to your submitted application. If you need to make changes, you must withdraw this application and re-submit your request. To withdraw the application please log back into SOLAS: <https://dhrnycaps.nycenet.edu/SOLAS>.

Questions:

For technical questions regarding the SOLAS system, please call HR Connect at 718-935-4000 and refer to the case number at the top of this notice. For more information, you may also visit the HR Connect Employee Portal by logging in with your DOE/Outlook User ID and password at <https://doehrconnect.custhelp.com>.

Sincerely,

HR Connect

Medical, Leaves, and Records Administration

Please do not reply to this message via e-mail. This email address is automated.

Ref Number : GX5897335 N3350 ADA Submission

solas_donotreply@schools.nyc.gov <solas_donotreply@schools.nyc.gov>

Wed 9/22/2021 7:43 PM

To: Delloloio Remo (09X505) <RDelloioio@schools.nyc.gov>

09/22/2021

Case#: A75876

File# 755802

EMP ID: 381976

Dear REMO DELLO IOIO,

We have reviewed your application and supporting documentation for a religious exemption from the DOE COVID-19 vaccine mandate. Your application has failed to meet the criteria for a religious based accommodation. Per the Order of the Commissioner of Health, unvaccinated employees cannot work in a Department of Education (DOE) building or other site with contact with DOE students, employees, or families without posing a direct threat to health and safety. We cannot offer another worksite as an accommodation as that would impose an undue hardship (i.e. more than a minimal burden) on the DOE and its operations.

This application was reviewed in accordance with applicable law as well as the Arbitration Award in the matter of your union and the Board of Education regarding the vaccine mandate.

Under the terms of the Arbitration Award, you may appeal this denial to an independent arbitrator. If you wish to appeal, you must do so within one school day of this notice by logging into SOLAS <https://dhrnycaps.nycenet.edu/SOLAS> and using the option "I would like to APPEAL". As part of the appeal, you may submit additional documentation and also provide a reason for the appeal.

Sincerely,

HR Connect

Medical, Leaves, and Records Administration

Please do not reply to this message via e-mail. This email address is automated.

Ref Number : GX5918277 N3418 COVID-19_VAX_ReligiousExempt_GenDenial

solas_donotreply@schools.nyc.gov <solas_donotreply@schools.nyc.gov>

Thu 9/23/2021 3:42 PM

To: Delloloio Remo (09X505) <RDelloloio@schools.nyc.gov>

09/23/2021

Case#: A75876

File# 0755802

EMP ID: 381976

Dear REMO DELLO IOIO,

This notification confirms the receipt of your appeal of your denial of a COVID-19 vaccine mandate related exemption or accommodation. This appeal and your application materials and documentation are being forwarded to Scheinman Arbitration and Mediation Services ("SAMS") and independent arbitrators convened by SAMS who will consider your appeal.

Supplemental documentation may be submitted within 48 hours of your filing of the appeal to SAMS by emailing the applicable address below. Please include your name and union in the subject line and send from your DOE email.

UFT: AppealsUFT@ScheinmanNeutrals.com

CSA: AppealsCSA@ScheinmanNeutrals.com

Local 237: AppealsTeamstersLocal237@ScheinmanNeutrals.com

Local 891: AppealsLocal891IUOE@ScheinmanNeutrals.com

Sincerely,

HR Connect

Medical, Leaves, and Records Administration

Please do not reply to this message via e-mail. This email address is automated.

Ref Number : GX5925701 N3425 COVID-19_VAX_Exemption_Appeal

NYCDOE <noreply@schools.nyc.gov>

Fri 9/24/2021 10:18 AM

To: Delloloio Remo (09X505) <RDelloio@schools.nyc.gov>



Dear Colleague,

You are receiving this email because our records indicate that you have not yet used the **DOE Vaccination Portal** to submit proof that you have received at least one dose of a COVID-19 vaccine, as required by the DOE's [COVID-19 Vaccine Mandate](#). **The deadline to upload this information is September 27.**

If you fail to meet this deadline, you will be removed from payroll and placed on Leave Without Pay status (LWOP) beginning Tuesday, September 28, unless you are on an approved vaccine exemption or leave.

While you are on Leave Without Pay (LWOP), you:

- Cannot enter your work or school site until you have taken corrective action to comply with the terms of the mandate
- Cannot work and will not receive compensation
- Cannot use annual leave, CAR or sick time

In order to avoid being placed on LWOP status, you must use the [DOE Vaccination Portal](#) to upload your proof of vaccination no later than September 27.

If you have an approved exemption or leave your status will be updated shortly. Employees who are on an annual or sick leave on 9/28 and have not uploaded proof of vaccination by 9/27 will also be placed on a LWOP. (Employees in certain titles including substitutes will be placed in another inactive status, not a leave without pay.)

For more information about where to get vaccinated, visit vaccinefinder.nyc.gov or call 877-VAX-4-NYC.

For the latest COVID-19 staffing updates, please [visit the Coronavirus Staff Update InfoHub page](#).

If you encounter technical issues using the Vaccination Portal, please contact the DOE Help Desk by [opening a ticket](#) online or calling 718-935-5100.

Sincerely,

DOE Vaccination Portal Team

SCHEINMAN ARBITRATION AND MEDIATION SERVICES

----- X

In the Matter of the Arbitration

X

between

X

NEW YORK CITY DEPARTMENT OF EDUCATION

Re: UFT.1726

X

and

X

REMO DELLO IOIO

X

----- X

Issue: Religious Exemption

Date of Hearing: _____

Award

APPLICATION FOR EXEMPTION: GRANTED [] DENIED [X] OTHER []



Arbitrator

Barry Peek

09/30/2021

Date

NYCDOE <noreply@schools.nyc.gov>

Thu 9/30/2021 10:27 AM

To: Delloloio Remo (09X505) <RDelloioio@schools.nyc.gov>



Dear Colleague,

You are receiving this email because our records indicate that you have not yet used the **DOE Vaccination Portal** to submit proof that you have received at least one dose of a COVID-19 vaccine, as required by the DOE's [COVID-19 Vaccine Mandate](#). **The deadline to upload this information is 11:59pm on Friday, October 1.**

If you fail to meet this deadline, you will be removed from payroll and placed on Leave Without Pay status (LWOP) beginning Monday, October 4, unless you are on an approved vaccine exemption or leave, you will not receive compensation. Additionally you may not use annual leave, CAR or sick time in lieu of Leave Without Pay.

In order to avoid being placed on LWOP status, you must use the DOE Vaccination Portal to upload your proof of vaccination no later than October 4.

If you have an approved vaccine exemption, or an approved leave your status will be updated shortly. Employees in certain titles including substitutes will be placed in another inactive status, not a leave without pay.

For more information about where to get vaccinated, visit vaccinefinder.nyc.gov or call 877-VAX-4-NYC.

For the latest COVID-19 staffing updates, please [visit the Coronavirus Staff Update InfoHub page](#).

If you encounter technical issues using the Vaccination Portal, please contact the DOE Help Desk by [opening a ticket](#) online or calling 718-935-5100.

Sincerely,

DOE Vaccination Portal Team

solas_donotreply@schools.nyc.gov <solas_donotreply@schools.nyc.gov>

Tue 10/5/2021 8:42 PM

To: Delloloio Remo (09X505) <RDelloio@schools.nyc.gov>

10/05/2021

Case#: A75876

Dear REMO DELLO IOIO,

As you are aware, the independent arbitrator has denied your appeal for a medical or religious exemption to the COVID-19 vaccine mandate. As a consequence, **you are being placed on a Leave Without Pay (LWOP) because you are not in compliance with the [COVID-19 Vaccine Mandate](#). Your LWOP status goes into effect beginning with the first work day after you received the notification from the arbitrator** (which may be a different date than this notice).

While you are on Leave Without Pay (LWOP), you:

- Cannot work and will not receive compensation (but your medical benefits will continue)
- Cannot use annual leave, CAR or sick time
- Cannot enter your work or school site or work off-site
- Cannot reach out to students or families

In order to return to work and be removed from LWOP status, you must complete two steps using the [DOE Vaccination Portal](#):

- Upload proof that you have received your first dose of a COVID-19 vaccine. **Proof of COVID-19 Vaccine can be an image of your vaccination card, NYS Excelsior Pass, or another government record** and
- E-sign the attestation stating that you are willing to return to your worksite within seven calendar days of submission.

Once you have completed these two steps, your HR Director and supervisor will also be notified and will work with you to plan your return date.

If you have already been vaccinated and you have uploaded this information, you may report to work as usual in person and you will be put back on active status. If you get vaccinated in the future, please follow the steps above and be in contact with your school about a return date.

Please be advised that if you do not intend to return to the DOE, you will need to return all DOE property, including computers, IDs, blackberries, and keys, immediately. Failure to return any DOE property that has been assigned to you will delay the processing of your final payment and any payout of leave time.

Employees represented by UFT or CSA who have been placed on LWOP due to vaccination status may select (in SOLAS) special separation or leave options per the arbitration award:

- **Separation with benefits** (available in SOLAS as of Monday, October 4): Employees choosing to separate under this option:
 - **Must share their intention to separate via SOLAS by October 29, 2021.**

- Will be required to waive their rights to challenge the involuntary resignation, including, but not limited to, through a contractual or statutory disciplinary process
 - Will be eligible to be reimbursed for unused CAR/sick leave on a one-for-one basis at the rate of 1/200th of the employee's salary at departure per day, up to 100 days, to be paid out following the employee's separation
 - Will be eligible to maintain health insurance through September 5, 2022, unless they have health insurance available from another source.
- **Extend the leave without pay due to vaccination status through September 5, 2022** (available in SOLAS as of Monday, November 1 through November 30, 2021):
 - Employees choosing this option will also be required to waive their rights to challenge their involuntary resignation, including, but not limited to, through a contractual or statutory discipline process
 - They will remain eligible for health insurance through September 5, 2022
 - Employees who have not returned by September 5, 2022 shall be deemed to have voluntarily resigned
 - Beginning December 1, 2021, the DOE will seek to unilaterally separate employees who have not selected one of the options above or otherwise separated service.

For more information about where to get vaccinated, visit vaccinefinder.nyc.gov or call 877-VAX-4-NYC. For the latest COVID-19 staffing updates, please [visit the Coronavirus Staff Update InfoHub page](#).

Sincerely,
NYCDOE Division of Human Capital

Ref Number : GX5971980 N3446 COVID_Vax_LWOP

Law Office of Joshua Pepper, PLLC

30 Wall Street, 8th floor
New York, NY 10005-2205
(212) 804-5768
jpepper@jpeppersq.com

October 8, 2021

Human Resources
NYC Department of Education
65 Court Street, Rm 102
Brooklyn, NY 11201

Re: Remo Dello Ioio, File No. 755802

To whom it may concern:

I write on behalf of my client Mr. Remo Dello Ioio. He has been employed with you for nineteen years. On September 20, 2021, soon after the Department of Education (“DOE”) implemented its vaccine mandate, Mr. Dello Ioio applied for a religious exemption from that mandate, pursuant to DOE policy. On September 22, he was informed that his request had been denied. The denial notice contained no information regarding the reason for the denial. As per the instructions he was given, Mr. Dello Ioio appealed the denial through the portal the next day. He did not submit additional documentation because, without explanation for the denial, Mr. Dello Ioio wanted to provide all supporting documentation at an arbitration hearing. His understanding was that all applicants would be given such hearings, and I have heard that the independent arbitrator is interviewing DOE employees who have requested religious exemptions.

On September 30, Mr. Dello Ioio received a notice that his appeal was denied with no explanation. The next day, he received another notice stating that his appeal was pending. This contradiction gave him reason to believe that he would receive an arbitration hearing as he had originally thought. But on October 5, he received notice that an independent arbitrator had denied his appeal.

Mr. Dello Ioio has found this process to be highly confusing. He has never been given an explanation why his appeal was denied. Although he did not submit supporting documentation through the portal, this was in reliance on his understanding that he would have the opportunity to do so at his hearing. On my client’s behalf, I formally request that he be given a hearing or interview so that he may present his argument in full as to his entitlement to a religious exemption from the DOE’s vaccine mandate.

Very truly yours,

Joshua Pepper

Joshua Pepper

cc: Michael Mulgrew (via email)
Mike Sill (via email)

Fwd: Remo Dello Ioio #755802

Joshua Pepper <jpepper@jpepperesq.com>
To: Remo Dello Ioio <rdelloioio2@gmail.com>

Fri, Oct 8, 2021 at 2:25 PM

FYI

EXHIBIT K

----- Forwarded message -----

From: **Karen King** <KKing@uft.org>
Date: Fri, Oct 8, 2021, 2:16 PM
Subject: RE: Remo Dello Ioio #755802
To: Joshua Pepper <jpepper@jpepperesq.com>

Hello,

Thank you for your email. Not everyone who has filed an appeal will have a hearing. The documents submitted are reviewed by the arbitrator and if, in the arbitrator's sole discretion, a hearing is warranted the arbitrator will schedule. Many were decided on the papers submitted.

Karen King

*Administrative Assistant to the Assistant Secretary &
Director of Personnel, Payroll, and Special Projects*

United Federation of Teachers

50 Broadway, 13th Floor

New York, N.Y. 10004

kking@uft.org

From: Joshua Pepper <jpepper@jpepperesq.com>
Sent: Friday, October 08, 2021 12:37 PM
To: Michael Mulgrew <MMulgrew@uft.org>; Michael Sill <MSill@uft.org>
Subject: Remo Dello Ioio #755802

Please see attached.

--

Joshua Pepper

Law Office of Joshua Pepper

30 Wall Street, 8th floor

New York, NY 10005

212-804-5768



ltr.requesting.hearing.10.8.21.pdf

78K

Your Appeal to the Citywide Panel - Additional Information

EXHIBIT N

Division of Human Resources <DHR@schools.nyc.gov>

Fri 1/7/2022 7:06 PM

Colleague,

Your appeal of your religious exemption to the COVID-19 vaccine mandate has been submitted to the Citywide Appeal Panel. To assist the Citywide Appeal Panel in reviewing your religious exemption request, please provide the following additional information by Friday, January 14, 2022 at 8:00 pm:

1. Whether you have previously taken any vaccinations.
2. If you have stated that you have a personal religious aversion to foreign or other impermissible substances entering your body, please describe this with more clarity, including describing any other commonly used medicines, food/drink and other substances you consider foreign/impermissible or that violate your religious belief.
3. If you have stated that you cannot take the vaccine because of an objection to using derivative fetal cells in the development of a vaccine, please provide more information about your stated objection and whether there are other medications or vaccinations that you do not take because of this objection.
4. Any additional occasions you have acted in accordance with the cited belief outside the context of a COVID-19 vaccination, to the extent not previously described in the documentation already submitted.

To submit this information, please follow the steps below:

- Written responses should be sent in as an attached document to PanelAppealUpdate@schools.nyc.gov (*Do not send, copy, or reply to this email.*)
- Written responses must be received by email by Friday, January 14, 2022 at 8:00 pm
- Only attach new information/document - do not resend documentation that was already provided.
- Include your Name and Employee ID number in the subject line of your email.

If additional information is not provided, the Panel will consider your appeal based on the materials/information you already submitted through SOLAS.

Thank you,

NYCDOE Division of Human Resources

noreply@salesforce.com <noreply@salesforce.com>
on behalf of
NYC Employee Vaccine Appeals <vaxappeal@dcas.nyc.gov>
Mon 3/7/2022 10:15 AM
To: Delloloio Remo (09X505) <RDelloloio@schools.nyc.gov>

The City of New York Reasonable Accommodation Appeals Panel has carefully reviewed your Agency's determination, all of the documentation submitted to the agency and the additional information you submitted in connection with the appeal. Based on this review, the Appeals Panel has decided to deny your appeal. This determination represents the final decision with respect to your reasonable accommodation request.

The decision classification for your appeal is as follows: The employee has failed to establish a sincerely held religious belief that precludes vaccination. DOE has demonstrated that it would be an undue hardship to grant accommodation to the employee given the need for a safe environment for in-person learning

For all employees other than DOE employees: Pursuant to the City of New York's policy concerning the vaccine mandate, you now have **three business days** from the date of this notice to submit proof of vaccination. If you do not do so, you will be placed on a leave without pay (LWOP).

For Department of Education (DOE) employees: Pursuant to New York City Department of Education policy, you have seven calendar days to extend your Leave Without Pay or return to work. If you do neither, you will be subject to termination. For further information and instructions, please see [DOE Denial of Appeal Information](#).



U.S. Department of Justice

Civil Rights Division

NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

VIA EMAIL

150 M Street, N.E.

Karen Ferguson , EMP, 4CON, Room 9.514

Washington, DC 20530

January 19, 2022

Mr. Remo Dello Ioio
3208 Barkley Ave.
Bronx, NY 10465

Re: EEOC Charge Against New York City Dept. of Education
No. 520202200117

Dear Mr. Dello Ioio:

Because you filed the above charge with the Equal Employment Opportunity Commission, and the Commission has determined that it will not be able to investigate and conciliate that charge within 180 days of the date the Commission assumed jurisdiction over the charge and the Department has determined that it will not file any lawsuit(s) based thereon within that time, and because you have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice. If you cannot afford or are unable to retain an attorney to represent you, the Court may, at its discretion, assist you in obtaining an attorney. If you plan to ask the Court to help you find an attorney, you must make this request of the Court in the form and manner it requires. Your request to the Court should be made well before the end of the time period mentioned above. A request for representation does not relieve you of the obligation to file suit within this 90-day period.

The investigative file pertaining to your case is located in the EEOC New York District Office, New York, NY.

This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

Kristen Clarke
Assistant Attorney General
Civil Rights Division

by /s/ Karen L. Ferguson
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: New York District Office, EEOC

New York City Dept. of Education

**AFFIDAVIT
E. LOIACONO**

EXHIBIT 3

STATE OF NEW YORK)
) ss.
COUNTY OF BRONX)

E. LOIACONO, being first duly sworn on oath, deposes and declares as follows:

1. I am above the age of 18, and I am competent to make this affidavit.
2. I am on leave of absence without pay from the New York City Department of Education as a Special Education Teacher for Home Instruction Schools (District 75). The main office is located at 3450 E. Tremont Ave. Bronx, NY 10465.
3. This is a non-school, non-DOE owned building. It is privately owned office space which the DOE rents space within. Home Instruction Schools is a citywide program which provides academic instruction to students who are eligible for Medically Necessary Instruction (MNI) due to a medical/psychiatric condition which renders them unable to attend affiliated school.
4. I was placed on leave without pay starting October 6, 2021 for being unable to take the mandated COVID-19 vaccination as a job requirement due to my sincerely held religious beliefs. **Exhibit 1**
5. In my 20 years as a teacher with the DOE, I have not been required to get vaccinated.
6. My original hire date for the DOE as a Special Education was September 4, 2001.
7. I became tenured on September 4, 2004.
8. I hold a Bachelor of Science in Special Education K-12 from Long Island University and a Master of Science in Literacy from Mercy College. In addition I have achieved 30 Professional Development Graduate Credits from New York Center for Teacher Development (NYCTD).
9. I hold a New York State Permanent Certification in Special Education K-12.

10. I began working with Home Instruction Schools in the Spring of 2013. My job description is teaching students primarily ranging from grades 3 -12 who are unable to attend school due to orthopedic, non-orthopedic/medical or psychiatric reasons. I teach both students with disabilities (IEP) and students who don't have any disability (Non IEP). Some of my responsibilities are curriculum development, lesson planning, IEP development, and academic instruction.
11. Home Instruction is a unique program, and the only program, to my knowledge in the DOE, that has been providing medically necessary instruction primarily on an online platform since September 13, 2021. **Exhibit 2**
12. I fulfilled my job duties, responsibilities and job requirements remotely from home using Educational Technology through Distance Learning from March 17, 2020, to September 20, 2021 and remotely from a public location from September 21, 2021 to October 5, 2021 and continued to be rated highly effective and satisfactory.
13. On September 22, 2021, my religious exemption application to the DOE's Vaccine Mandate was denied. I appealed this denial on September 23, 2021, and my appeal of that denial was denied on October 5, 2021. My re-appeal to a citywide panel was submitted on December 2, 2021 and I haven't received any decision yet. As a result, I have been placed on a leave without pay since October 6, 2021 because I have not been provided with a reasonable accommodation as I'm entitled to by law.
14. On August 24, 2021, Dave A. Chokshi, Commissioner of the NY Health and Mental Hygiene and the DOE entered an Order mandating that all DOE staff, City employees, and contractors who "work in-person in a DOE school setting or DOE building" and all employees of any school located in a DOE building working in person shall provide proof of vaccination by September 27, 2021. I noticed that nothing in this Order acknowledges religious exemptions and accommodations.

Exhibit 3

15. On September 15, 2021, Dave A, Choski entered an Order mandating that all DOE staff, City employees, and contractors who “work in-person in a DOE school setting or DOE building” and all employees of any school located in a DOE building working in person shall provide proof of vaccination by September 27, 2021. Section 6 of this Order states that “Nothing in this Order shall be construed to prohibit any reasonable accommodations otherwise required by law.” **Exhibit 4**
16. On August 12, 2021 I received a DOE email from the Division of Human Resources stating that “Mayor de Blasio announced that as of September 13, 2021, all City employees, including DOE employees, are required to provide proof of COVID-19 vaccination or a negative COVID-19 test once every seven days.” **Exhibit 5**
17. On August 23, 2021 I received a DOE email from the NYC Public School Chancellor Meisha Porter stating that “Effective September 27, all DOE employees are required to provide proof that they have received at least one dose of the COVID-19 vaccine.” This was the first time I was notified of the vaccine mandate. However, since I was on summer vacation, I can’t recall when I opened this particular email. **Exhibit 6**
18. This notice I received on August 23, 2021 from Chancellor Meisha Porter did not inform me that I have a right to receive an accommodation due to my sincerely held religious beliefs. **Exhibit 6**
19. On September 1, 2021 I received a DOE email from Division of Human Resources stating “As we begin the new school year, and as office staff prepare for a return to working full time in DOE buildings, we want to remind you that all DOE employees are required to have received to have at least one dose of a COVID-19 vaccine by September 27.” **Exhibit 7**
20. Since I don’t work in a DOE building, at the time it was unclear how this vaccination mandate would be applicable to me with the teaching position I currently have.

21. On September 3, 2021 Home Instruction teachers were asked to fill out a google survey to pick a preference of providing instruction to our students. The three choices were: fully in home, fully remote or a combination of both. **Exhibit 8**

22. I completed the Google survey and selected the option of being fully remote. I expected to continue teaching two of the same students that I had been remotely teaching since March 2020. I was also their teacher in their home prior to going fully remote in March 2020.

23. One of these students, now in 12th grade, has been assigned to me since Fall of 2016. The other student is currently in 10th grade and has been assigned to me since the Spring of 2018. It was sad to no longer be able to teach them since being placed on a leave without pay. Two teachers have filled my position and provide individual remote instruction to both of these students.

24. On September 9, 2021 I received a DOE email from the DOE Vaccination Portal stating "You are receiving this e-mail because our records indicate that you have not yet submitted proof of COVID-19 vaccination (at least one dose) to the DOE Vaccination Portal. The deadline to upload this information is September 27th.

Exhibit 9

25. This email also stated "The information will be kept confidential in accordance with state and local law." This made me wonder how the administration at Home Instruction would know my vaccination status on September 27, 2021. **Exhibit 9**

26. On September 10, 2021 I received another DOE email from the DOE Vaccination Portal reminding me that I have not yet submitted proof of COVID-19 vaccination (at least one dose) to the vaccination portal. **Exhibit 10**

27. On September 10, 2021 at 6:50 pm I received a UFT email stating "In the arbitration proceeding, the city was also forced to back off its original plans to offer no exemptions for those unable to take the vaccine for medical or religious reasons."

Exhibit 11

28. I found this email from the UFT to be confusing in regards to being granted a religious exemption and then being provided with an accommodation. The email stated "The online application form for a medical accommodation or an exemption will go live on SOLAS on Monday, Sept. 13. UFT members will have until Monday, Sept. 20, to apply." **Exhibit 11**

29. I understood it as those with approved medical reasons for not taking the vaccination would be granted accommodation, however those with religious reasons would be considered either approved or denied without an accommodation.

30. This email goes further not providing clarity of accommodations that the DOE would offer to those with religious beliefs against the vaccination. Again it sounded to me you were either denied or approved a religious exemption without talk of an associated accommodation with it. "Appeals of religious exemption denials will be heard by the same independent arbitrators ruling on medical exemption appeals. During the appeal process, the member will be temporarily granted the exemption and kept on payroll." **Exhibit 11**

31. This email again goes further without clarity of accommodations that the DOE would offer those with religious beliefs. It states "Members who are not vaccinated by Sept. 27 but do not qualify for a medical accommodation or an exemption must be offered two options, both of which include one year's health coverage." Those options were unpaid leave or severance. **Exhibit 11**

32. This email from the UFT had a link to the arbitrator's order that had the Exemption and Accommodation Requests and Appeal Process. This agreement with the DOE and the UFT still did not mention anything in regards to an accommodation for a religious belief. **Exhibit 12**

33. Instead of this order explaining to me what accommodation could be offered to those with religious beliefs, it tried to discourage me from submitting a religious exemption by requiring my documents to be in writing by a religious official. **Exhibit 12**

34. The UFT did not offer any town hall meetings for its members regarding the details of this arbitration agreement before the application process began for a religious exemption and what reasonable accommodations could be offered.
35. On September 12, 2021 I received a DOE email from Division of Human Capital in regards to COVID Testing and Vaccination Updates. The email stated that "As you are aware, all DOE employees are required to have received to have at least one dose of a COVID-19 vaccine by September 27." **See Exhibit 13**
36. On September 15, 2021 I received another DOE email from the DOE Vaccination Portal reminding me that I have not yet submitted proof of COVID-19 vaccination (at least one dose) to the vaccination portal. **See Exhibit 14**
37. On September 17, 2021 I received another DOE email from the DOE Vaccination Portal reminding me that I have not yet submitted proof of COVID-19 vaccination (at least one dose) to the DOE Vaccination Portal. **Exhibit 15**
38. On Saturday, September 18, 2021, I received a DOE email from the Division of Human Capital how to use SOLAS, the online portal used to upload documentation for an exemption request, five days after September 13, 2021 (first day of the application process) and two days before the September 20, 2021 deadline. **See Exhibit 16**
39. This email from the DOE still does not cover what accommodation can be provided to those who are submitting a religious exemption. This COVID-19 Vaccine Related Exemption and Accommodation application is for: **See Exhibit 16**
- Religious Exemption requests to the mandatory vaccination policy
 - Medical Exemption requests to the mandatory vaccination policy
 - Medical Accommodation requests where an employee is vaccinated but is unable to mount an immune response to COVID-19 due to pre-existing immune conditions.

40. On September 20, 2021 I received another DOE email from the DOE Vaccination Portal reminding me that I have not yet submitted proof of COVID-19 vaccination (at least one dose) to the vaccination portal. **See Exhibit 17**
41. On September 22, 2021 I received another DOE email from the DOE Vaccination Portal reminding me that I have not yet submitted proof of COVID-19 vaccination (at least one dose) to the vaccination portal. **See Exhibit 18**
42. In total this is 7 email reminders from the DOE between September 9, 2021 up to September 22, 2021. However, I received 0 emails from the DOE in regards to an accommodation that can be offered to me with a religious exemption.
43. I am a devout Christian who is a strong believer in the Bible, and therefore, I submitted my request for a religious exemption for an accommodation to the DOE. **See Exhibit 19**
44. I used the SOLAS portal as directed by the DOE to submit my religious exemption documentation on Monday, September 20, 2021. **See Exhibit 20** In SOLAS it asked if I worked in a DOE building. and I clicked No.
45. In addition I mailed a notarized copy of my religious exemption documents to the DOE certified receipt mail on September 20, 2021. **Exhibit 21**
46. I was notified via email on Wednesday, September 22, 2021 at 7:43 pm that my request for reasonable accommodation was denied. **See Exhibit 22**
47. The reason for my denial as stated in the email was that my application failed to meet the criteria for a religious based accommodation.
- “Per the Order of the Commissioner of Health, unvaccinated employees cannot work in a Department of Education (DOE) building or other site with contact with DOE students, employees, or families without posing a direct threat to health and safety. We cannot offer another worksite as an accommodation as that would impose an undue hardship (i.e. more than a minimal burden) on the DOE and its operations.” **Exhibit 22**

48. There wasn't anyone from the DOE or from my school that spoke with me before receiving the denial notice on September 22, 2021 about what accommodation I could be provided with for me to continue to work if I submitted a religious exemption.
49. The denial email on September 22, 2021 stated I may appeal the denial within one school day of receiving the notice by logging into SOLAS. **See Exhibit 22**
50. I didn't know what the DOE considered the "end of a school day", so I didn't know what time on September 23, 2021 I was to appeal by and that worried me.
51. The email stated "As part of the appeal, you may submit additional documentation and also provide a reason for the appeal." This caused me stress because I didn't know what kind of additional documentation they might want aside from what I had already submitted and to then have to explain why I was appealing. **See Exhibit 22**
52. I appealed the denial on September 23, 2021. **See Exhibit 23**
53. I submitted additional documentation to support my sincerely held religious beliefs and request for an accommodation. **See Exhibit 24**
54. Along with **Exhibit 24**, I also believe I submitted a document provided by Liberty Counsel, with information on how questioning sincerely held religious beliefs is unlawful. **See Exhibit 25**
55. On September 23, 2021, at 5:50 pm I received a DOE email from Division of Human Capital and in the subject line it was titled, '**Consequences for Mandate Non-Compliance**' This language the DOE is using is insensitive to me as I will need to choose my faith over my job. **See Exhibit 26**
56. On September 24, 2021 I received another DOE email from the DOE Vaccination Portal reminding me that I have not yet submitted proof of COVID-19 vaccination (at least one dose) to the vaccination portal. **See Exhibit 27**
57. On September 25, 2021 I received a DOE email from NYC Public School Chancellor Meisha Porter. The email states that "Yesterday evening, a federal judge placed a temporary injunction on the vaccine mandate for DOE staff. The City and DOE are

urging a speedy resolution by the Circuit Court this week. We are confident our vaccine mandate will continue to be upheld; our students, school communities and colleagues deserve no less. While this means that the current vaccine or weekly testing mandate remains in place for the week of September 27 for all staff, we should continue to prepare for the possibility that the vaccine mandate will go into effect later in the week.” **See Exhibit 28**

58. On September 26, 2021 I received another DOE email from NYC Public School Chancellor Meisha Porter. The email states that “All staff must report to work on Tuesday, September 28 and until further notice. This includes staff who are not yet vaccinated and those who applied for a vaccine exemption. For those who have not yet submitted their proof of vaccination, please do so as soon as possible.” **Exhibit 29**

59. On September 27, 2021 at 9:00 pm I received another DOE email from NYC Public School Chancellor Meisha Porter. The email states that “This evening, the Second Circuit dissolved the temporary injunction placed on the vaccine mandate. A hearing was originally scheduled for this Wednesday, but the court made the decision to rule on the mandate today. **Exhibit 30**

60. This means that the DOE staff vaccine mandate can now go into effect. The DOE will begin implementing the staff vaccine mandate on Monday, October 4.” **Exhibit 30**

In addition the email states “Here is what this means for active staff who have not yet submitted their vaccination proof: **See Exhibit 30**

- You must report to work this week, and upload a proof of negative COVID test result in the DOE Vaccination Portal.
- You must submit your proof of vaccination by 11:59pm on Friday, October 1 in the DOE Vaccination Portal (unless you have an approved exemption).
- You will be removed from payroll beginning Monday, October 4 if you are not vaccinated by end of day Friday, October 1.”

61. On September 28, 2021 I received another DOE email from the DOE Vaccination Portal reminding me that I have not yet submitted proof of COVID-19 vaccination (at

least one dose) to the vaccination portal. This feels like harassment and coercion to choose my job over my faith. **See Exhibit 31**

62. On Thursday September 29, 2021, I received the Memorandum of Agreement between the UFT and DOE for Teachers of the Homebound working for Home Instruction Schools. It states under D (2) "Employees with accommodations shall instruct remotely from a location consistent with their accommodation." **See Exhibit 32**

63. On September 30, 2021 I received another DOE email from the DOE Vaccination Portal reminding me that I have not yet submitted proof of COVID-19 vaccination (at least one dose) to the vaccination portal. **Exhibit 33**

64. I had a medical procedure scheduled for September 29, 2021 therefore I had an excused absence from work for September 29, 2021 and September 30, 2021.

65. On Thursday September 30, 2021 at 7:53 am I received a DOE email from Dan McCray, an arbitrator/mediator from Sheinman Arbitration and Mediation Services. This email informed me that I was scheduled for a hearing on my request for exemption to immunization, the next day, Friday, October 1, 2021 at 1:30pm, held virtually over Zoom. **Exhibit 34**

66. I was absent from work the day the arbitrator emailed me on September 30, 2021. I honestly can't even remember at what time during the day that I opened my DOE email to read his email. But, I know I checked it at some point that day despite recovering from a medical procedure from the day before.

67. I was anxious to know if my accommodation was approved since appealing on September 23, 2021. I was so worried to be put on a leave without pay on October 4, 2021. I'm not sure what would have happened had I been absent from work on September 30th and October 1st and didn't check my work email. I'm unsure what protocol was sent in place if I was unable to make this appeal hearing and if the DOE would have rescheduled my hearing.

68. On Thursday, September 30, 2021 at 4:00 pm I received a DOE email from Matthew Foglino, a UFT representative. The UFT only communicates with its members through our personal emails and not from the DOE email, so I was surprised to receive a UFT representative email me in my DOE inbox. **Exhibit 35**

69. He informed me that If I wish to have a union representative present at my hearing tomorrow, to let him know. I responded to his email at 5:11 pm requesting a UFT representative during my hearing. **Exhibit 35**

70. Mr. Foglino also stated that my principal was required to give me release time. This caused me to feel more overwhelmed that I needed to reach out to my principal and my assistant principal to inform them of this appeal hearing. Although my administration is supportive, the topic of vaccination is a sensitive matter in any workplace, and being unvaccinated makes me feel segregated.

71. I was able to use my lunch break on October 1, 2021 to attend the appeal hearing in order to avoid feeling uncomfortable calling or emailing my administration about this.

72. Having a little over 24 hour notice while recovering from a medical procedure on September 29, 2021 along with working full time on October 1, 2021 it was extremely short notice for me to retain legal counsel to represent me during the hearing. I felt I needed not only legal support but emotional support. Public speaking makes me nervous and can cause me to feel anxiety. The thought of this appeal hearing made me feel worried.

73. I had no idea what to expect from this hearing, what was going to be discussed, my beliefs in God and the Bible, an accommodation to be offered, if there was additional information needed, was I supposed to clarify everything I wrote and submitted? I had so many questions and this was extremely stressful for me.

74. On October 1, 2021 during my lunch break at 1:30 pm I joined the Zoom invite link. I didn't exactly know aside from the arbitrator, the UFT representative, and my legal counsel, if anyone else would be in this Zoom hearing.

75. Upon the start of the hearing, the arbitrator introduced the parties in the hearing and that was when I was informed a representative for the DOE was participating.

76. The arbitrator requested that the DOE representative give a brief statement why my application should be denied.

77. The DOE representative stated that my application should be denied because -it is questionable if my clergy letter amounts to a document from a religious official, it's to her understanding that these forms can be purchased online.

78. There are issues brought up in my letter in regards to the COVID-19 vaccines containing fetal tissue or fetal cells and she refers to a letter from Dr. David Choski to explain why I was wrong with the documents I submitted.

79. During my zoom hearing the following exact questions were asked to me by the arbitrator:

- “So does your religion prohibit you from taking any medicines or vaccines, and I just note that in the letter from the pastor it says among the intrusions that are incompatible with your religious faith, are masks and covid testing? This is your view as well, that you're not able to use a mask or engage in any sort of covid testing, and my first question.....does this also extend that you don't take any medicines at all?”
- “So you're not opposed to mask or covid testing?”
- “So the vaccines and medicines you're opposed tothose connected to fetuses, not all medicines or vaccines.....otherwise you would?”
- “So if I understand your position, from what I understand from your testimony and Ms. Jacobs (Attorney) (Try to consult with your attorney to correct it) If I got that correctly, She's not opposed to masks or covid testing, she's not opposed to medicines or vaccines, unless there is some connection with such medicines and vaccines, to aborted fetuses, to say it broadly, or to blood or animal blood or something of that sort, but other than that no.

81. The Zoom hearing didn't have the best connection and the arbitrator mentioned several times there was background noise. He wasn't even clear with question #3 above as to what he was trying to ask me. Throughout this, I was very nervous, and honestly felt intimidated by the whole hearing that I was subjected to. It made me feel like I was a criminal that did something wrong.

82. On October 1, 2021 at 9:51 I received a DOE email from Division of Human Resources stating that “While this appeal is pending, you are considered eligible to

be treated as exempt for the purposes of the vaccine mandate which will go into effect as of Monday, October 4. However, as that status will change, you should be regularly checking your DOE email (including this weekend) for notification from the Arbitrator and be aware of the following: **Exhibit 36**

“While your appeal is pending and you remain unvaccinated, you will not be put on a Leave Without Pay status. However, you will not be permitted to enter a school building. If your usual place of work is in a school, you will be expected during this time to temporarily work offsite and support your school to cover your work in your absence and perform related activities”.

83. The email also states that “If your appeal is granted (approved) and you remain unvaccinated, you will not be put on a Leave Without Pay status. If your usual place of work is in a school, you will receive a new assignment outside of a school building (e.g. administrative offices) to perform academic or administrative work determined by the DOE. A notification of this assignment may take a few days and in the interim you should temporarily work offsite to transition your work and support related activities. If your appeal is denied and you remain unvaccinated, you will be put on a Leave Without Pay, with benefits.” **See Exhibit 36**

84. On October 5, 2021 at 7:21 pm I received a DOE email from Vaccine Appeals from Sheinman Arbitration and Mediation Services stating that my request for an exemption from the COVID-19 vaccine was denied and attached was the award dated October 2, 2021. It was not stated in writing in the email or on the award as to why my religious exemption wasn't accepted and why an accommodation couldn't be given. **See Exhibit 37**

85. On October 5, 2021 at 9:31 pm I received a DOE email from SOLAS that states “As you are aware, the independent arbitrator has denied your appeal for a medical or religious exemption to the COVID-19 vaccine mandate. As a consequence, you are being placed on a Leave Without Pay (LWOP) because you are not in compliance with the COVID-19 Vaccine Mandate. Your LWOP status goes into effect beginning

with the first work day after you received the notification from the arbitrator (which may be a different date than this notice). **See Exhibit 38**

86. According to the arbitration Award, the options for me to elect were an involuntary separation (severance) by October 29, 2021, or elect to be placed on unpaid leave with health benefits until September 5, 2022 by November 30, 2021. **See Exhibit 12**

87. According to the arbitration award, both options include a waiver of the employees rights to challenge the employee's voluntary resignation, including but not limited to through a statutory disciplinary process. **See Exhibit 12**

88. A copy of the waiver mentioned in the order was not attached to the Arbitration Award or in the email the UFT sent us on September 10, 2021. **See Exhibit 12**

89. If I didn't select either option before November 30, 2021, the DOE would seek to unilaterally separate from me.

90. I emailed Michael Sill from the UFT on October 30, 2021 to ask him to clarify what unilaterally separate means. He said, "We cannot guarantee that the DOE will do anything until they do it. You should expect that the DOE will attempt to terminate you if you do not extend the unpaid leave of absence. "**See Exhibit 39**

91. On October 8, 2021, I emailed VaccineAppeals@scheinmanneutrals.com, the UFT, and all attached, requesting in writing, the reasons why my religious exemption was denied by the Arbitrator from Scheinman Arbitration and Mediation Services. I have yet to receive an answer to my inquiry. **Exhibit 40**

92. On October 13, 2021 I received an DOE email in regards to my paycheck during leave without pay. The email states that "You are receiving this message because you are on a Leave Without Pay (LWOP) due to noncompliance with the DOE's COVID-19 Vaccine Mandate. This means you have not been eligible to report to your school site since Monday, October 4. **Exhibit 41**

93. The email further states "We want you to be aware that this Friday, October 15, 2021, you will receive your paycheck for the pay period ending 10/15/2021. You will receive

this check because the implementation of the vaccination mandate on October 4, 2021, is after the beginning of this pay period for pedagogical and paraprofessional titles.

- Since the October 15th paycheck includes days when you were not authorized to work, we want you to make sure you are aware that this overpayment will ultimately be recouped in one of the following ways:
- If you do not intend to return to the DOE and are resigning, this paycheck will be deducted from your final entitlement if you have unused CAR/sick leave. In the event you do not have a sufficient balance to cover this overpayment, you will be required to repay any remaining amount.
- If you decide to become compliant and return to work, the overpayment will be deducted from your future paychecks.

94. I was on payroll until Tuesday October 5, 2021, while waiting for the appeal decision for my religious exemption, therefore I still should be paid for this day.

95. This email from October 13, 2021 also states “As a reminder, while you are on Leave Without Pay (LWOP), you:

- Cannot work and will not receive compensation, but you will continue your medical benefits **Exhibit 41**

96. On November 2, 2021 I received a DOE email that states “If you would like to extend your LWOP status, you may do so by logging into SOLAS and stating your intention between November 1 -November 30. **See Exhibit 42**

97. Employees choosing the option to extend their LWOP status:

- Will remain eligible for health insurance through September 6, 2022.
- Must waive their rights to challenge such resignation, including, but not limited to, through a contractual or statutory disciplinary process
- May also seek to return from this leave prior to September 6, 2022 by following the steps below on returning from LWOP status. Employees who have not returned by September 6, 2022 shall be deemed to have voluntarily resigned
- If you do not share your intention to extend or return from LWOP by November 30, the DOE will seek to unilaterally separate you from service beginning December 1, 2021.

98. This email states “Must waive their rights to challenge such resignation, including, but not limited to, through a contractual or statutory disciplinary process.” The arbitration

award refers to a waiver, however the DOE and the UFT did not email me a waiver.

Exhibit 42

99. On Friday, November 19, 2021 at 5:36 pm, I received a DOE email from Division of Human Resources with a new appeal option for religious exemptions to the COVID-19 Vaccine Mandate with a central Citywide Panel since my appeal was not granted by the third-party arbitrator. **Exhibit 43**

Please note the following about this new appeal option:

- Your request will be considered by a central Citywide Panel comprised of representatives of the Commission on Human Rights, the Department of Citywide Administrative Services, and the Office of the Corporation Counsel. The determination will be made by the panel according to the standards imposed by Title VII of the Civil Rights Act of 1964, the New York State Human Rights Law, and the New York City Human Rights Law.
- To submit this appeal, you will use SOLAS, as you have before. Specific login instructions are below. There is no need to re-submit any materials you already included in your original application or in SOLAS as part of your appeal to the arbitrator, however, you may submit new documentation when you submit this appeal in SOLAS. Note that documentation from a religious official is not required but you are free to submit it.
- To be considered by the Citywide Appeal, you must submit the appeal via SOLAS by no later than 11:59 pm on Friday, December 3, 2021.
- While your new appeal is pending you will remain on Leave Without Pay status. However, the deadline to apply for the extension of your Leave Without Pay will be extended until seven calendar days after your new appeal is resolved.

100. On December 2, 2021, through SOLAS, I submitted additional documentation to the Citywide Panel and explained the circumstances specific to my religious exemption request and reasonable accommodation. **Exhibit 44**

101. I don't understand why I haven't been placed back on payroll while my new appeal is being resolved for my religious exemption and accommodation.

102. On Friday, January 7, 2021 at 7:06 pm, (there is a pattern of DOE emailing me on Fridays after school hours). I received a DOE email from the Division of Human Resources stating that "Your appeal of your religious exemption to the COVID-19 vaccine mandate has been submitted to the Citywide Appeal Panel. To assist the

Citywide Appeal Panel in reviewing your religious exemption request, please provide the following additional information by Friday, January 14, 2022 at 8:00 pm: **Exhibit**

45

- Whether you have previously taken any vaccinations.
- If you have stated that you have a personal religious aversion to foreign or other impermissible substances entering your body, please describe this with more clarity, including describing any other commonly used medicines, food/drink and other substances you consider foreign/impermissible or that violate your religious belief.
- If you have stated that you cannot take the vaccine because of an objection to using derivative fetal cells in the development of a vaccine, please provide more information about your stated objection and whether there are other medications or vaccinations that you do not take because of this objection.
- Any additional occasions you have acted in accordance with the cited belief outside the context of a COVID-19 vaccination, to the extent not previously described in the documentation already submitted.

103. I have not been contacted by anyone from the DOE to speak with me about any reasonable accommodations that could be offered to me.

104. In January 2022 the DOE updated the protocols for testing students and staff for COVID.

“Schools can test up to 10% of DOE staff after student COVID-19 PCR surveillance testing is complete. DOE staff can be tested if they are in the DOE consent data sent to PCR testing providers.” **Exhibit 46**

105. The UFT has updated the protocols for testing students for COVID in January 2022.

Exhibit 47

106. All DOE students, employees, and visitors must complete a health screening before entering DOE facilities. This screening has been updated January 3, 2022.

“This health screening must be completed on each day of arrival. This health screening can also be completed online at: <https://healthscreening.schools.nyc/>. Upon entering the facility, if you have not completed the online health form you will be asked to provide responses to the questions below. As a reminder, all DOE employees must be vaccinated to enter our school buildings.” **Exhibit 48**

107 This screening does not ask an employee to check a box if they are vaccinated or unvaccinated. So, the DOE is going on an honor system. An employee can enter

unvaccinated, and someone can enter not fully vaccinated with just 1 dose of a 2 dose series. **Exhibit 48**

108. I noticed that the UFT stopped sending me emails despite being an active employee of the DOE. I emailed UFT Representative Michael Sill to inquire about this on January 14, 2021. I was told I am an inactive member and in order to re-activate my membership I have to pay \$25.00. The UFT has not ever sent me this information after being placed on leave without pay. **Exhibit 49**

109. The court determined that the agreement between the DOE and city only allowing religious exemptions for Church was unconstitutional.

110. I have been forced to prove and justify my religious beliefs since the weekend of September 20, 2021 up until January 14, 2022. This is unjustifiable and unacceptable. This has become harassment

111. Including the additional questions I'm being requested to answer by January 14, 2021, for the Citywide Appeal Panel, it would be a total of 5 times that I have been scrutinized by the DOE for my religious beliefs, and request for an accommodation.

112. As of September 2021, I could no longer afford paying for my needed medical care. As his fees are too expensive for me because I am no longer receiving income due to the DOE unlawful decision. I have used other techniques such as free online resources to help with emotional distress, anxiety and depression.

113. Due to my pre-existing health issues, this loss of job has made me suffer more. There are days where I cry, struggle with motivation and getting out of bed is a chore. I continue to rely on my faith, and Bible Scriptures for peace and strength during such a traumatic time in my life to help me maintain mental stability since struggling with depression can be very difficult.

114. Since I am unable to be vaccinated due to my religious beliefs I will have to move out of NYC. The financial burden is causing me to seek other living arrangements out of

NYC or outside of NYS and this in itself is a large expense. If I don't have pay stubs to prove I have an income this will hinder landlords from renting to me.

116. I am now dealing with eviction issues regarding my apartment and financial hardship moving. I had to retain an attorney in October against my landlord due to negligence etc. and was given a Notice to Vacate my month to month lease within 30 days. I now pay a lawyer the monthly rent in an escrow account and I can't apply for New York State Emergency Rental Assistance Program (ERAP). I received a Notice to Quit on December 1, 2022.
117. Since March 2020 I have not been able to work per session (overtime) with my job during after school hours because of the pandemic. I have always worked per session for many years. This has always been a crucial way for me to supplement my income to cover monthly bills.
118. As of October 2021, per session was offered to me but since I am on leave without pay, I'm ineligible to work this over time.
119. I work during the summer for the Chapter 683 Program with Home Instruction to supplement my income. This past summer I provided remote instruction using Google Classroom. The application to apply will be available in the Spring and I'm worried I won't be able to apply and that I will lose my seniority and retention rights for this summer program.
120. I have applied for Unemployment Benefits on 2/17/22 but I'm not certain I'm eligible.
121. I have called one of my credit companies to claim a hardship to help me with my monthly minimum payments that I'm struggling to cover. They were only able to waive a payment for December 2021 and I will need to continue making the minimum payments in order to avoid claiming bankruptcy.
122. At the start of the school year, I began to purchase materials to supplement instruction and expected to be reimbursed by submitting receipts for Teachers Choice. However, I

was informed in October I was not eligible for reimbursement because I am on leave without pay.

123. My Teacher's Retirement Plan for my Qualified Pension Plan (QPP) and my Tax-Deferred Annuity (TDA) are affected by being on leave without pay for the last four months. Leave Without Pay created by the DOE as a consequence of non-compliance with Covid 19 vaccine mandate, comes with the stipulation that the time on leave is not pensionable. This time is not pensionable, therefore the service time required for me to receive full pension benefits will be pushed back. reduction in pension payout for the rest of my life at the point of retirement.
124. I'm going through loan money from my pension to cover all my bills. This will have to be paid back with interest and required payments will now be higher because of a shorter timeline I will have once the deadline of the paused payments has been lifted.
125. I will have to start using my personal credit cards with unfortunate high interest rates to keep up with bills and this affects my credit score due to debt to income ratio and can hinder my future goal of owning a home.
126. This was the 1st holiday my husband and I couldn't afford presents for each other, family and friends. We couldn't spend the extra money during the holiday to host dinner with family and friends.
127. My husband has been out of work since 12/27/21 because of his religious beliefs against vaccination, so we are now both unemployed. Together, we take care of my husband's disabled mother financially.

SOLAS Screen 10-11-21

It states," I am authorizing DOE personnel to discuss information regarding my request with my supervisor(s) and other DOE employees for the purpose of assessing whether my request is reasonable and does not impose an undue hardship on the DOE or the City of New York."

discuss how I could receive some time of workplace safety equipment that would protect me from the hazards of Covid-19 in the air of the school as I just recently learned is required under the OSHA standards.

129. Neither has the DOE discussed with me pursuant to OSHA what other modifications to how I perform my job that I could continue to work. No one explained why it was necessary for me to receive a vaccine when I do not have student face to face contact, and I worked in a non-DOE building.

130. I have filed a complaint with the EEOC and I have received my right to sue letter.

I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct.

Dated this 14 day of Apr, 2022.

Elizabeth Loiacono
E. LOIACONO

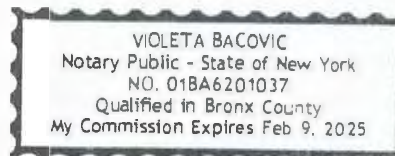
A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

April 14, 2022, by E. LOIACONO, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Witness my hand and official seal.

[Signature]
Signature of Notary Public

[Affix Notary Seal]





U.S. Department of Justice

Civil Rights Division

NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

VIA EMAIL

150 M Street, N.E.

Karen Ferguson , EMP, 4CON, Room 9.514

Washington, DC 20530

March 24, 2022

Ms. Elizabeth Loiacono
2839 Collis Place
Bronx, NY 10465

Re: EEOC Charge Against New York City Dept. of Education
No. 520202200353

Dear Ms. Loiacono:

Because you filed the above charge with the Equal Employment Opportunity Commission, and the Commission has determined that it will not be able to investigate and conciliate that charge within 180 days of the date the Commission assumed jurisdiction over the charge and the Department has determined that it will not file any lawsuit(s) based thereon within that time, and because you have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice. If you cannot afford or are unable to retain an attorney to represent you, the Court may, at its discretion, assist you in obtaining an attorney. If you plan to ask the Court to help you find an attorney, you must make this request of the Court in the form and manner it requires. Your request to the Court should be made well before the end of the time period mentioned above. A request for representation does not relieve you of the obligation to file suit within this 90-day period.

The investigative file pertaining to your case is located in the EEOC New York District Office, New York, NY.

This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

Kristen Clarke
Assistant Attorney General
Civil Rights Division

by /s/ Karen L. Ferguson
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: New York District Office, EEOC

New York City Dept. of Education

**AFFIDAVIT
J. HARDING**

STATE OF NEW YORK)
) ss.
COUNTY OF WESTCHESTER)

EXHIBIT 4

J. HARDING, being first duly sworn on oath, deposes and declares as follows:

1. I am above the age of 18, and I am competent to make this affidavit.
2. I have worked at the New York City Department of Education (DOE) for over 16 years, as an administrator, since my start date in September 2005.
3. I hold a Bachelor of Science Degree in Psychology from Fordham University, a Masters of Science in Education from Mercy College and an Advanced Certificate from Hunter College for School Building Leadership and School District Leadership.
4. In the 16 years I have worked for the DOE, I had never been required to take a vaccine to be able to perform my job effectively.
5. Until October 4, 2021 when I was placed on indeterminate Leave without Pay for refusing to submit to the Covid-19 vaccine, I served as a tenured Education Administrator-Central Based Support Team Case Manager for CBST located at 333 7th Avenue, New York, NY 10001.
6. As a CBST Case Manager, I am responsible for placing students with special needs in Approved New York State Education Department (NYSED) Non-Public Schools. My job duties are carried out through communicating with NYC DOE colleagues, advocates, school personnel in the Approved NYSED Non-Public Schools and families by phone and email to coordinate placement for students at these schools.
7. From March 2020 through July 2021, my responsibilities as a CBST Case Manager were carried out 100% remotely from home. The NYC DOE issued a company computer to CBST Case Managers. The only accommodation I would need to work remotely is to have a company cell phone.

8. Notwithstanding my remote work ability, I was placed on leave without pay by the DOE starting October 4, 2021. See **Exhibit A**
9. It was declared for public safety reasons during the Covid-19 Pandemic, on March 15, 2020 that the Mayor Bill DeBlasio determined that all schools would go to remote instruction.
10. However, starting on July 1, 2021, DOE employees began receiving information about returning to the office, face coverings and COVID-19 vaccines. At this time, it was communicated that employees would not be asked to disclose their vaccination status. See **Exhibit B**
11. On 7-26-2021, an email was sent out by Chancellor Meisha Porter discussing that effective September 13, 2021, all DOE employees must have proof they are vaccinated for COVID-19 or, if not vaccinated, be tested for COVID-19 on a weekly basis. See **Exhibit C**
12. On 8-2-2021, an email from the NYC Division of Human Capital regarding the Face Covering Policy for City Employees was sent out. If you were unvaccinated, you were directed to wear a mask at all times while in the workplace. Follow-up emails were sent on 8-12-2021, 8-20-2021, 8-23-2021, 9-1-2021, 9-3-2021, and 9-12-2021 from Division of Human Capital and Chancellor Meisha Porter with guidance to returning to the office on vaccines, vaccination portal, face coverings and testing. See all emails as **Exhibits D**
13. Other than receiving instruction regarding required Covid-19 testing, masking hand, surface sanitation and hand washing for public safety and health to stop the spread of Covid-19, no other instructions or training was provided by the DOE regarding other safety precautions was provided to employees to reduce the risk of contracting or spreading the virus that causes Covid-19.
14. On 9-18-2021, an email was sent from the Division of Human Capital informing employees of the process of applying for Covid 19 Vaccine Mandate Related Exemption

or Accommodation through the online portal called SOLAS (Self-Service Online Leave Application System). See **Exhibit E**

15. On 9-21-2021, I uploaded a Religious Exemption Request into SOLAS. An emailed response was received from SOLAS confirming receipt of my Religious Exemption request. See **Exhibit F**)

16. On 9-22-2021, I received an email from SOLAS stating that my application failed to meet the criteria for a religious based accommodation. It informed me of how to APPEAL and that it had to be done in one (1) school day of the notice in SOLAS. See **Exhibit G**

17. At no time did the DOE ever provide any information regarding how to make a request for the vaccine exemption or any other safety precautions that could be used in lieu of taking the vaccine. Neither did the DOE inform me of my right to obtain accommodations including work place safety equipment beyond the basic face mask but of a high grade of equipment that would make the office safe for me and other staff. No one from DOE ever reached out to me to discuss how my job can be worked 100% remote and that I had already been working remote.

18. On 9-23-2021, I received an email confirming my request to appeal was received. I was given only approximately 1 day to submit an appeal. See **Exhibit H**

19. On 9-23-2021, an email was sent from the Division of Human Capital outlining the consequences for mandate non-compliance. See **Exhibit I**

20. But almost daily or at least several times a week, I was getting notices from the DOE and/or from the Chancellor urging me to take the vaccine or I would be placed on Leave without Pay.

21. On 9-27-2021, an email was sent from Chancellor Meisha Porter stating that the temporary injunction was dissolved and implementation of the mandate would begin in

the NYC DOE on 10-4-2021. Proof of vaccination needed to be uploaded in the Vaccination Portal by Friday, October 1, 2021 at 11:59 PM. If proof of vaccination is not uploaded by Friday, October 1, 2021 at 11:59 PM, employees would be removed from payroll on Monday, October 4, 2021. On Friday, October 1, 2021, I informed my supervisor, Dinh Lu-Berio, via telephone call that I would fall into this category. On September 30, 2021, an email was sent out reminding employees to upload proof of vaccination into the Vaccination Portal by 11:59 PM on October 1, 2021 or beginning Monday, October 4, 2021, employees would be placed on Leave Without Pay status. See **Exhibits J and K**

22. Then on 10-3-2021, I received an email with an Arbitration Award between the DOE and the United Teachers Federal (UFT) that explained that there was some type of agreement between the DOE and UFT that would only allow Covid vaccine exemptions for certain religious groups, namely the Church of science and that no other religious groups of beliefs would received an accommodation. See **Exhibit L**

23. Prior to 10-3-2021, I was never given any information about the UFT meeting with the New York City DOE to negotiate on behalf of members regarding the requirements for the Covid-19 vaccine. My union, CSA, which agreed with and signed onto the same Arbitration Agreement without informing me and the rest of their members or giving us a chance to vote on the arrangement.

24. I had learned that the UFT had entered into an arbitration agreement that only provided exemptions from the Covid-19 vaccine requirement to only people of a certain religion and that others could apply.

25. On October 15, 2021, I received a paycheck. I emailed the payroll secretary to inquire about how to pay back the money received as I was placed on Leave Without Pay status. Lizette Diaz was unable to tell me how to return the money. I followed up on 11-15-2021 and did not receive a response. See **Exhibit M**.

26. I was very upset, distraught and angry that my 16 year career was in jeopardy due to a vaccine that had never been required before of teachers.
27. On October 28, 2021 and November 2, 2021, emails were sent reminding employees on LWOP that deadlines to choose a severance option (10-28-2021) or extend your LWOP status (11-30-2021) were approaching. See **Exhibits N and O**
28. On November 19, 2021, an email was sent by the Division of Human Capital regarding the New Appeal Option for Religious Exemption to the COVID-19 Mandate. To submit the appeal, it had to be done through the SOLAS system no later than 11:59 PM on Friday, December 3, 2021. The email stated we did not have to upload the original documentation submitted, but could upload any new documentation. I uploaded a letter to the Citywide Panel regarding a remote work accommodation on December 2, 2021. On December 2, 2021, an email was sent by SOLAS confirming receipt of the new appeal. See **Exhibits P, Q and R**.
29. The entire process of seeking an exemption from the vaccine was exhausting, stressful and confusing.
30. Nevertheless, on January 7, 2022, an email was sent from the Division of Human Resources stating my appeal was sent to the Citywide Appeal Panel and asked for additional information regarding my religious exemption to the COVID-19 vaccine mandate which needed to be submitted by Friday, January 14, 2022 at 8:00 PM. See **Exhibit S**.
31. Then on March 28, 2022, I received an email notice that my City-wide panel denied my appeal for an accommodation. I was distraught and have experienced sleepless nights for weeks.
32. Subsequently, I filed a claim of religious harassment and an ADA claim with the EEOC.

33. This entire DOE process for obtaining an exemption and accommodations to continue to work has caused me tremendous anxiety, stress and frustration. As an Administrator for the DOE, I am extremely disappointed in how the mandate was handled by leadership and because I know that DOE employees did not need to be put on LWOP, including myself, suffered great anxiety and depression that my colleague would treat me and others in such an unjust manner.

34. More could have been done to preserve my job and the jobs of others during the Pandemic and the DOE has wrongly chose to refuse its employees our rights to continue to work with some type of health and safety protections that allows us to continue to do our jobs.

35. I have been emotionally spent and anguished to the point I have experience headaches, stomach pains, and nerve pain.

I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct.

Dated this 17th day of April, 2022.

J. Harding
J. HARDING

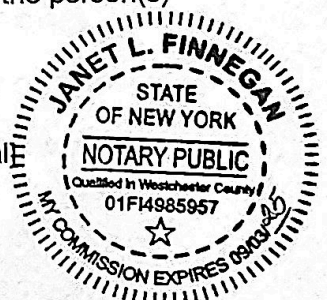
A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

Subscribed and sworn to (or affirmed) before me on this 17th day of April, 2022, by J. HARDING, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Witness my hand and official seal.

Janet L. Finnegan
Signature of Notary Public

[Affix Notary Seal]



**AFFIDAVIT
A. USTARES**

EXHIBIT 5

STATE OF NEW YORK)
)
COUNTY OF WESTCHESTER) ss:

A. USTARES, being duly sworn, deposes and says:

1. I am above the age of 18, and I am competent to make this affidavit.
2. I am a Social Worker employed by NYC Department of Education for 20 years.
3. In the 20 years I have worked for the DOE, I had never been required to take a vaccine to be able to perform my job effectively.
4. On 7/26/2021, I received an email announcement from NY DOC Chancellor Meisha Porter informing all DOE employees that to “keep the city safe” all City employees and contractors will soon be responsible for meeting Covid-Safe Requirement to be phased in from August 2nd to September 13 wherein all City workers will have to either show proof of vaccination or provide proof of negative Covid-19 test once every seven day. **Exhibit A**
5. Then on 8/23/2021, I received an email from the NYC DOE chancellor Meisha Porter informing all DOE employees of the Order by Dave A. Chokshi, Commissioner of the NY Health and Mental Hygiene and the DOE, Effective September 27, 2021 that all DOE employees were required to provide proof that they had received at least one dose of the COVID-19 vaccine. See **Exhibit B** There was reference in the notice of a right to any exemption from the vaccine requirement.
6. On 9/10/2021, my union the UFT sent an email out to all members stating that there was an arbitration held between the union and the DOE and that there was an agreement that the DOE would offer employee exemptions from the vaccine for religious or medical reasons and that employee had to apply for an exemption through this online portal, SOLAS which would not accept requests until 9/13/2021 until 9/20/2021. See **Exhibit C**
7. We were given just 6 days to complete a request with no instruction or information on how to apply.

8. Prior to the UFT notice, I was never notified of any arbitration meeting between the UFT and the DOE nor was I given a right to vote on the agreement reached by the UFT with the DOE.
9. When I asked around to other teachers and employees, it was my understanding that no one knew about the UFT and DOE arbitration and agreement.
10. On 9/20/21, I applied for a Religious Exemption to vaccinations and an accommodation.
11. On 9/22/21, the DOE denied my request for Religious Exemption an accommodation. See **Exhibit D**
12. On 9/23/21, I attempted numerous times to appeal the denial in SOLAS and I continuously received "ERROR" messages. I was frantic and deeply upset by the technical failures.
13. On 9/24/21, I emailed SOLAS Applications, HR Connect, EMPLOYEE RELATIONS, and Chancellor Meisha Porter explained the technical issue in SOLAS which prevented me from appealing the denial requested that they contact me immediately to resolve the issue and have my appeal recorded. See **Exhibit E**
14. Almost daily we received emails warning us of the vaccine requirement, but I did not get a reply regarding the technical difficulties with the system that prevented me from appealing.
15. Then 10/2/21, I emailed a second time, SOLAS Applications, HR Connect, EMPLOYEE, stating that I did not receive a response to my email of 9/24/21 regarding the technical issue in SOLAS which prevented me from appealing the denial requested they contact me immediately to resolve the issue and have my appeal recorded. See **Exhibit F**
16. On 11/19/21, I emailed the following stating, in summary, that I could not appeal the denial, that I requested assistance numerous times and I requested that an immediate reexamination of my application be done under a fair, constitutionally sound process. See **Exhibit G**
17. On 11/23/21 and 11/30/2021, I again emailed the DOE demanding that they reconsider my appeal due to the technical issues. See **Exhibit H**

18. On 11/30/21, I emailed UFT assistant Secretary, Michael Sill making him aware of the technical issues I had with the SOLAS system recording my appeal to the denial. I explained who I emailed for assistance in resolving the issue and how no one responded. I demanded a re-evaluation of my application. His response was generic and he did not address the specific issue I explained. See **Exhibit I**
19. On 12/10/21, I filed a Group Grievance with UFT which was denied. See **Exhibit J**
20. On 1/31/22, I received email from Division of Human Resources advising I will be terminated as of 2/11/21. See **Exhibit K**
21. On 2/1/22, I emailed my Religious Exemption and Accommodation Request to PanelAppealUpdate@schools.nyc.gov See **Exhibit L, M, and N**
22. On 2/2/22, I emailed LWOPquestions@schools.nyc.gov, stating I received the termination notification in error. See **Exhibit O**
23. As of 2/7/22, I have not received a response from anyone I have emailed to remedy the technical issue with SOLAS and my inability to have my appeal recorded on 9/23/21.
24. At no time did anyone from DOE speak to me directly about how I could continue to work with an exemption in a safe workplace. All the communications received was that all unvaccinated employee were not safe to be in DOE building. All the while from August until February 2022, I was constantly bombarded with emails instructing to get vaccinated or be terminate.
25. Since DOE has placed me unwillingly on Leave Without Pay, in violation of the UFT contract, I have lost thousands upon thousands of dollars of my regular pay, and unrealized interest earned in my Tax Deferred Annuity account and my NYC 457 Plan. I have suffered irreparable and undue burden of financial damage, as well as unnecessary and undue stress caused directly by the illegal and unconstitutional actions of the DOE.
26. My financial condition was so stressful being on leave without pay, that on March 9, 2022 with tears in my eyes and in my heart begging for the Lord's forgiveness, I took the vaccine against my conscious and against my God. While I believe the Lord has forgiven me, I still

carry feelings of guilt and shame that I let the Lord down and did not trust the Lord's will for my life.

27. Once I submitted the proof of vaccine, I was allowed to return to work on March 14, 2022.

28. Since returning to work, I have discovered through conversations with other teachers, that are other teachers who received exemptions from the vaccine based on their religious beliefs.

29. There are many other teachers who like me were harassed by the exemption process and stonewalling with lack of information and barrage of "get vaxxed emails" into taking the vaccine against our faith to keep your jobs.

30. I have feeling of rage and anger with depression and anxiety over having to let the Lord down while the DOE was giving other exemptions and forcing teachers to experience great anxiety. I still cry over this horrible experience and I don't think I will ever get over the trauma of the harassment and having to choose between my God and my job.

31. I have had weeks of sleepless nights, crying and stomach pain from this horrible ordeal. I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct.

Dated this 15th day of April, 2022 [Signature]
A. USTARES

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

Subscribed and sworn to (or affirmed) before me on this 15th day of April, 2022, by A. USTARES, proved to me on the basis of satisfactory evidence to be the person (or persons) who appeared before me is the person who provide an identification that provides a full first and last name.

Witness my hand and official seal.

Signature of Notary Public

[Affix Notary Seal]





U.S. Department of Justice

Civil Rights Division

NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

VIA EMAIL

150 M Street, N.E.

Karen Ferguson , EMP, 4CON, Room 9.514

Washington, DC 20530

January 14, 2022

Mrs. Ayse P. Ustares
100 Cedar Street
Unit B42
Dobbs Ferry, NY 10522

Re: EEOC Charge Against New York City Dept. of Education
No. 520202200062

Dear Mrs. Ustares:

Because you filed the above charge with the Equal Employment Opportunity Commission, and the Commission has determined that it will not be able to investigate and conciliate that charge within 180 days of the date the Commission assumed jurisdiction over the charge and the Department has determined that it will not file any lawsuit(s) based thereon within that time, and because you have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice. If you cannot afford or are unable to retain an attorney to represent you, the Court may, at its discretion, assist you in obtaining an attorney. If you plan to ask the Court to help you find an attorney, you must make this request of the Court in the form and manner it requires. Your request to the Court should be made well before the end of the time period mentioned above. A request for representation does not relieve you of the obligation to file suit within this 90-day period.

The investigative file pertaining to your case is located in the EEOC New York District Office, New York, NY.

This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

Kristen Clarke
Assistant Attorney General
Civil Rights Division

by /s/ Karen L. Ferguson
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: New York District Office, EEOC
New York City Dept. of Education

**AFFIDAVIT
J. COOMBS**

EXHIBIT 6

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

J. COOMBS, being first duly sworn on oath, deposes and declares as follows:

1. I am above the age of 18, and I am competent to make this affidavit.
2. I have worked for the City of New York in various agencies since 2001 with a gap in service from 12/05 - 5/07. I started my city work career with New York City Department of Citywide Administrative Services (DCAS) then was transferred to DDC in 2013, after a year and a half (1½) with DDC, I moved to the Queens District Attorney's Office for three (3) years, then back with DCAS as of May 2017.
3. My job description is to serve as the Chief Architect / Director of Architecture and ADA Compliance for the Capital Construction and Technical Services (CTS) Unit, office located at 1 Centre Street, 20th. Floor South, New York, NY 10007. I supervise three (3) architects, I manage the ADA compliance consultant contract, General Construction contract, review architectural design drawings, manage construction work, conduct special inspection assigned to architects and serve as liaison between other city agencies.
4. During my almost two decades with the DCAS, I have never been asked to submit to taking a vaccine for any reason, including during other health and safety crisis in New York City, like the life-threatening disease Ebola, anthrax, and H1N1.
5. On 1/13/2022, I was placed on leave of absence without pay (LWOP) for exercising my right to refuse to submit to the Covid-19 vaccine requirement due to the public health Covid-19 pandemic. See **Exhibit A**
6. On August 24, 2021, I learned from my sister, Sara Coombs-Moreno, a teacher with the New York City Department of Education (DOE) that the New York Department of Health (NYC DOH) had issued an Executive Order requiring DOE employees to submit to Covid-19 vaccination for the health and safety of students. See **Exhibit B**
7. Because I was concerned that the vaccine requirement for DOE employees would be required of all New York City employers, and I knew that I did not want to submit to any vaccine due to my religious beliefs, on August 25, 2021 I sent an email to Belinda French the Diversity & EEO Officer, requesting a quick phone call because I had a couple of questions about the anticipated vaccine requirements for city workers. I received an email back from Milangely Lopez, Investigator that same day at 4:12 pm stating that Belinda was not available however she could answer any questions I had and that she was available to talk between 10:00 am and 12:00 pm. Please see **Exhibit C**.

8. On August 26, 2021 I called Milangely Lopez per the email and began to explain to her that I did not like how things were going with regards to the vaccine and that I wanted to file for a religious exemption due to my sincerely held belief in our lord Jesus Christ. At that time there was no mandate, therefore she stated that there was no need to file anything at the time and not to worry. The conversation was kept to a minimum. I hung up and that was the end.
9. As expected, on August 31, 2021, Mayor De blaiso announced via an all City press release that due to the rapidly spreading the variant of the Covid-19 and based on the CDC recommendations, that all New York City employees and contractors were required to either provide proof of vaccination or a negative Covid-19 test beginning September 13, 2021. I learned about the announcement watching New York City TV news. But found the press release online - See **Exhibit D**
10. Finally, on September 9, 2021 I received an email at 6:31 pm regarding weekly testing and information on the vaccine and protocols regarding the pandemic. Please see **Exhibit E**
11. Then on October 20, 2021, New York City Department of Health (DOH) Commissioner, David Section 3.01(d) of the Health Code, David A. Chokshi, MD, MSc, issued a DOH Executive Order that required City Employees and contractors to only provide proof of vaccination by October 29, 2021 and no reference to the option to provide a negative Covid-19 test was provided in the order. See **Exhibit F**
12. Consequently, on October 20, 2021, I emailed Belinda French, the EEO officer at 9:30 am, requesting a meeting. The meeting took place via phone call at 1:30 pm, at that moment I express to her my sincerely held belief and that I wanted to file for a reasonable accommodation based on religious exemption against taking the COVID-19 vaccine, later that day at 2:13 pm I received an email back with the reasonable accommodation form and instructions. Please see **Exhibit G & H**.
13. On October 21, 2021 I received an email and attachment from HR, stating that "Beginning November 1st, employees who have not provided proof of vaccination against COVID-19 will be placed on Leave Without Pay (LWOP) and be subject to termination of employment. Employees have until October 29th, 2021 to provide Human Resources with proof of vaccination or, until October 27th, 2021 to submit a request for a reasonable accommodation." See **Exhibit I & J**
14. In addition, in the same email, HR attempted to coerce me into getting vaccinated by offering \$600 for complying. If I refused, the consequence would be LWOP. I found this coercion unprofessional and a blatant disregard to all people seeking religious exemption.
15. On October 22, 2021 I submitted my Reasonable Accommodation Request, to the DCAS EEO office, with a written statement outlining my sincerely held religious belief per "Title VII of the Civil Rights Act of 1964, individuals have the right to be free from discrimination on the basis of religion. As part of their religious beliefs, many individuals object to vaccines." and that As a **practicing**

Christian in a covenant relationship with GOD taking the vaccine violates that covenant with GOD as goes against GOD's commandments for me.

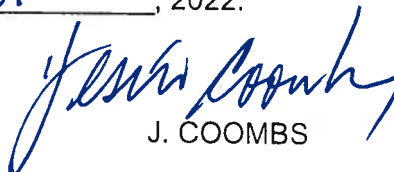
16. On October 26, 2021 I received a call from Milangely Lopez, Investigator at about 11:40 am, Mrs Lopez stated this was an intake conversation and not an interview, she then proceeded to ask a series of questions regarding my written statement and to clarify the phrase "Covenant relationship with GOD", I then proceed to explain my sincerely held religious beliefs. The call took about 15 minutes. At no point in our conversation did Ms. Lopez explains or offers me any type of accommodations available to me. Please see **Exhibit K**
17. At no time during the call did Mrs Lopez consider modifying my workplace, including continuing to allow me to work remotely as a workplace modification that would allow me to remain in my unvaccinated state and work while also maintaining a safe workplace for myself and other employees. Nothing was offered to me by DCAS HR other than the requirement to get vaccinated as a means to stop the spread of the Covid virus in the DCAS building that I was working in at the time.
18. On October 28, 2021, I received another email, which I felt was harassing and coercive, stating that "DCAS employees must submit proof of their first COVID-19 shot to Human Resources by October 29, 2021 at 5pm. DCAS employees who do not comply with this requirement will be placed on leave without pay effective Monday, November 1, 2021." Please see **Exhibit I & J**
19. On November 4, 2021, I received an email from HR stating that employees who are awaiting a determination on or have been granted a reasonable accommodation request are required to submit a weekly test. My reasonable accommodation was not granted to continue to work, while being tested and wearing protective gear. Please see **Exhibit K**.
20. On December 6, 2021, I received an email where Belinda French clearly revealed that the conversation with Melangely Lopez illegally violated my right to privacy. When my conversation with Ms. Lopez was initiated, she stated our conversation was not being taken as a statement but just an intake and that she was just going over what I wrote for her to have a clear understanding of my sincerely held religious beliefs. As an intake, I thought Ms. Lopez was attempting to work with me in good faith to seek a means or tool that would maintain a safe workplace without me having to take the vaccine. Ms. Lopez however, deceived me and misconstrued my conversation that was not established as being admitted as an official record. Please see **Exhibit L, paragraph 4**. Had I known my responses during this phone conversation were being taken as an official record, I would have asked her to simply refer back to my letter so my words would not be misconstrued.
21. On December 6, 2021, I received a denial of my request to be exempted from the DOH vaccine require, which was included in the email from Belinda French **Exhibit L, paragraph 7**, she states based on the information provided and after careful consideration, the office determined that I did not provide sufficient testimony to demonstrate that I had a sincerely held religious observance, belief or practice that would qualify for a religious exemption to the COVID-19 vaccine mandate. However, I provided EEO with 4 testimonies from people who know me between 5 and 50 years in addition to my own testimony with my appeal as to my sincerely held religious beliefs. Please see **Exhibit M**.

22. In the denial, I was offered to appeal the decision as part of the administrative process.
23. Prior to sending my response to the denial, I was given the choice to either have my response reviewed by a panel consisting of the DCAS, Law department and the NYC Commission of Human Rights (called the City-wide Panel) or by an arbitrator. See **Exhibit N**. I decided to have my application reviewed by the panel. See **Exhibit O**.
24. I submitted an appeal to the DCAS City-wide panel and I included in my appeal to the EEO my medical records of my God given immunity to Covid 19, which further supports my case that I don't need to take the Covid 19 vaccine for an immunity that God himself has given me. The test shows that my antibody levels for Covid 19 are higher than the antibody levels of a person with the Covid 19 vaccine. See **Exhibit P**
25. I was only given 3 days to respond to the denial, not sufficient time for a person who has to work full time, take care of a family and other obligations.
26. On December 21, 2021 before receiving an email informing me I was either exempted or denied for my religious accommodation, I was informed by Cris De La Rosa, our Chief of Staff, that I was on the list for employees being placed on LWOP. I immediately reached Belinda French to question this information. See **Exhibit Q**. Belinda stated there was an error in the list and she would reach out to HR regarding the matter.
27. On January 5, 2022 I received an email from Belinda French stating she received an email that informed her my appeal was denied. Upon further investigation into the email, I realized the email originated from noreply@salesforce.com on behalf of NYC Employee Vaccine Appeals vaxappeal@dcas.nyc.gov. Please see **Exhibit R & S**.
28. On January 6, 2022 I requested via email once again to be provided with the reason why my reasonable accommodation exemption was denied. I have yet to receive a reason. In addition, I asked why I was being punished by being placed on LWOP when the new Mayor's address on January 1 or 2, 2022 stated that punitive action will not be taken. I received no response to this question. Furthermore, I asked if I could see or speak with someone to see what all this meant for me and my family and I once again, did not receive a response or the support I requested. Please see **Exhibit T**.
29. On January 13, 2022, I was placed on Leave without Pay (LWOP) because I continued to refuse the vaccine based on my religious sincerely held belief.
30. Then, on January 21, 2022 at 6:14 pm, I received an email from Shameka Blount, DCAS Executive Director, Administration stating that I must comply with the with the Vaccine mandate or I will be terminated from my employment with DCAS " Compliance with the vaccination mandate is a condition of your continued employment with the City. If you do not provide proof of vaccination, your employment with the City will be terminated effective February 11, 2022." however this was never a condition of my original employment, and I was not aware that that can change without my consent or knowledge.

31. Because I am the sole financial support of my family I was very upset and also fearful of losing my salary and entire career and harming my family.
32. Since being placed on LWOP, I suffered from headaches from anxiety and had sleepless nights worried about how I would take care of my family. I spent nights praying to the Lord to cause the city to lift the requirement for me to get vaccinated. I prayed to God daily for courage to obey what the Bible, the word of God, calls all believers to do and that is to treat my body like the temple of God and not put unnatural substances in my body.
33. While I cried to God for the days leading up to February 11, 2022, I also had great fear that I was not doing my duty before God to take care of my family. This emotional conflict caused me so much anxiety that I asked God for forgiveness and I went ahead and took the Covid-19 on February 11, 2022 after having my salary withheld for a month.
34. I sent my vaccine card to the DCAS and I was allowed to return to work on February 15, 2022.
35. Since returning to work and speaking to other employees, I have learned that other DCAS employees did receive exemptions from the vaccine and were allowed to continue to work based on their religious beliefs, without being placed on LWOP.
36. Having learned that other employees were given exemptions and not placed on LWOP, I have experienced feelings of guilt for having gone against my religious beliefs when others were given exemptions. My anger, guilt and resentment toward DCAS is so great that I suffer from anxiety and headaches from having let my God down and allowing myself to be coerced into going against my God for a job.
37. I pray daily for forgiveness to deal with the anger and resentment and emotional anguish I feel toward DCAS for forcing me to have to choose between my God, my family and this job. I feel horrible all the time. I pray for peace daily.

I declare under penalty of perjury under the laws of the State of California, where I am temporarily residing to receive emotional help and support, that the foregoing is true and correct.

Dated this 18th day of April, 2022.


J. COOMBS

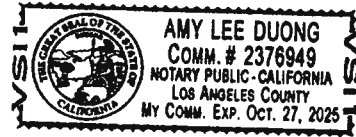
A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

Subscribed and sworn to (or affirmed) before me on this 18 day of Apr. 1, 2022, by J. COOMBS, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Witness my hand and official seal.

Signature of Notary Public

[Affix Notary Seal]



Mayor's Announcement re: vaccination requirements for City employees

Chancellor Meisha Porter

Mon 7/26/2021 7:04 PM



To: Chancellor Meisha Porter

- Chancellor Meisha Porter

Dear Colleagues,

I want to take a moment to thank all of you for your tireless dedication this past year and a half. Whether you're in the office or in our communities, New York City's employees stepped up to keep the city safe and moving forward. As a result, we made enormous strides in our fight against COVID-19, even before the vaccination stage of our response.

But as you know, nothing can provide a higher level of protection against the virus or do more to speed the city's recovery than vaccines, which are safe and lifesaving, and which we have made free and accessible all over the city.

To protect each other and those we serve, and to set an example for our fellow New Yorkers, the Mayor has announced that all City employees and contractors will soon be responsible for meeting the COVID-Safe Requirement, to be phased in from August 2nd to September 13th. This policy requires all City employees and contractors to show either one-time proof of vaccination or a negative COVID-19 test once every seven days.

Convenient and community-based vaccination sites are accessible via nyc.gov/vaccinefinder or by calling 877-VAX-4-NYC.

For those who choose instead to be tested weekly, [a diagnostic PCR test](#) -- which has the highest level of accuracy -- will be required. Most PCR tests must be sent to a lab for processing and come back within one or two days, but some are rapid and can yield a result while you wait. Either is acceptable for meeting the COVID-Safe Requirement. There are hundreds of PCR testing locations in the five boroughs; the list can be found at nyc.gov/covidtest. If you'd like to receive a test specifically at a City-sponsored site, that list can be found here: <https://www.nychealthandhospitals.org/test-and-trace/testing/>.

While testing is available it cannot replace the moral and health imperative to get vaccinated. I urge you in the strongest of terms: it is time to get vaccinated if you have not already. By not getting vaccinated you are putting yourself, your loved ones, and your City at risk. Vaccination is safe, effective, and free. It is the best thing we can do to keep each other, our loved ones, and all New Yorkers safe.

Thank you,

Dave A. Chokshi, MD, MSc

Commissioner

NYC Department of Health and Mental Hygiene

Please do not reply to this message.

Vaccine Portal

DOE Vaccination Portal

D

Division of Human Capital

Thu 8/12/2021 11:33 AM



Report Phishing - Report phishing to help stop future attempts



To:

- Division of Human Capital

Dear Colleagues,

Recently, Mayor de Blasio announced that as of September 13, 2021, all City employees, including DOE employees, are required to provide proof of COVID-19 vaccination or a negative COVID-19 test once every seven days. Employees who have received at least one dose of the COVID-19 vaccine by September 13 will not have to submit weekly test results. (Employees who have one dose but who are not fully vaccinated by September 13 will still be expected to update their records when fully vaccinated to continue to be exempt from the weekly testing requirement.)

In order to be exempt from the weekly testing requirement, you must submit proof of vaccination using the DOE's Vaccination Portal, here: <https://vaccine.schools.nyc/>. For more information and updates, visit the [COVID-19 Vaccination Portal page](#) on the DOE InfoHub.

The Vaccination Portal allows you to provide the DOE your vaccination status and to upload proof of vaccination, which can be an image of your vaccination card, NYS Excelsior Pass, or other government record. Submitting this information will support New York City's pandemic response and recovery efforts, and help ensure that the DOE is a safe place to work for all employees.

The portal will also be enhanced to allow staff who do not submit proof of vaccination to submit the required weekly COVID-19 test results. More details regarding the weekly COVID testing requirement will be shared prior to September 13.

The privacy and security of your information will be protected by technical, physical, and administrative safeguards, including encryption. This information will be kept confidential in accordance with federal, state, and local laws. If you encounter technical issues using the Vaccination Portal, please contact the DOE Help Desk by [opening a ticket online](#) or calling 718-935-5100.

For more information about where to get vaccinated, visit vaccinefinder.nyc.gov or call 877-VAX-4-NYC.

For more information on where to get tested, visit

<https://www.nychealthandhospitals.org/covid-19-testing-sites/>.

Sincerely,

DOE email

Important Vaccination Update for All DOE Staff

Chancellor Meisha Porter

Mon 8/23/2021 10:44 AM



Viva Insights

Forward

To:

- Chancellor Meisha Porter

Dear Colleagues,

I hope this summer is treating you well. As summer winds down and we begin to gear up for the 2021-22 school year, I hope you're all getting time to rest before heading into our year of homecoming.

This morning, the Mayor, Commissioner Chokshi and I made an important announcement about health and safety requirements for all DOE employees to ensure we are doing all we can to keep our school communities and colleagues safe. **Effective September 27, all DOE employees are required to provide proof that they have received at least one dose of the COVID-19 vaccine.**

Employees who have one dose but who are not fully vaccinated by September 27 will still be expected to update their records when fully vaccinated.

We encourage all staff who have not completed their COVID-19 vaccination to do so as soon as possible. More information about locations where New Yorkers can receive a vaccine for COVID-19 can be found at vaccinefinder.nyc.gov or call 877-VAX-4-NYC.

In order to provide the DOE your vaccination status, please upload proof of vaccination through the DOE's Vaccination portal, here: <https://vaccine.schools.nyc/>.

For more information and updates, visit the [COVID-19 Vaccination Portal page](#) on the DOE InfoHub.

Proof of vaccination can be an image of your vaccination card, NYS Excelsior Pass, or other government record. Submitting this information will support New York City's pandemic response and recovery efforts, and help ensure that the DOE is a safe place to work for all employees.

The privacy and security of your information will be protected by technical, physical, and administrative safeguards, including encryption. This information will be kept confidential in accordance with federal,

state, and local laws. If you encounter technical issues using the Vaccination Portal, please contact the DOE Help Desk by [opening a ticket online](#) or calling 718-935-5100.

We will continue to share updates on health and safety policies and protocols for schools as well as borough and central offices leading up to the first day of school. Thank you for all you are doing to keep yourself, your loved ones, your colleagues and the students you serve safe.

In partnership,

Meisha

Meisha Porter

Chancellor, New York City Public Schools
she/her/hers

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



EXHIBIT B

Reminder of Vaccine Requirement no option for med exemption or testing mentioned

Reminder: Vaccination Requirement as of 9/27

D

Division of Human Capital

Wed 9/1/2021 2:16 PM



Like

To:

- Division of Human Capital

Dear Colleagues,

As we begin the new school year, and as office staff prepare for a return to working full time in DOE buildings, we want to remind you that all DOE employees are required to have received to have at least one dose of a COVID-19 vaccine by September 27. As an additional health and safety measure, all DOE staff and contractors will be required to wear face coverings at all times in DOE buildings, including administrative office buildings, except while eating or drinking.

You must use the [DOE's Vaccination Portal](#) to upload your proof of vaccination no later than September 27. Proof of vaccination can be an image of your vaccination card, NYS Excelsior Pass, or other government record. This information will be kept confidential in accordance with federal, state, and local laws. If you encounter technical issues using the Vaccination Portal, please contact the DOE Help Desk by [opening a ticket online](#) or by calling 718-935-5100.

Additionally, we are pleased to announce that during the first week of school the DOE will be hosting vaccination sites in every school with students aged 12 or older—approximately 700 locations. DOE employees can also make use of vaccination sites in our Central and borough offices—details are below:

65 Court Street, Brooklyn – K801

Dates: September 2,3 and September 9,10

Hours: 10 a.m.-5 p.m.

Interior: Room 101

44-36 Vernon Blvd – Q801

Dates: September 2,3 and September 9,10

Email received from UFT stating they won the right for RE & Medical accommodations

From: **Michael Mulgrew, UFT President** <noreply@uftmail.org>

Date: Fri, Sep 10, 2021, 6:50 PM

Subject: Arbitrator rules in union's favor on medical accommodations

Dear Sara,

An independent arbitrator has upheld the union's position and ruled that the city must offer work outside school buildings to immunocompromised members who – even vaccinated – are at high risk of contracting serious illness from a COVID-19 infection.

In the arbitration proceeding, the city was also forced to back off its original plans to offer no exemptions for those unable to take the vaccine for medical or religious reasons.

[See the arbitrator's order »](#)

The online application form for a medical accommodation or an exemption will go live on SOLAS on Monday, Sept. 13. UFT members will have until Monday, Sept. 20, to apply.

The city has also agreed – based on the arbitrator's determination – that other UFT members who decline to be vaccinated may go on unpaid leave or take severance, both with a year's health coverage.

We were also able to secure an early-leave provision for women in their third trimester of pregnancy.

The city's vaccine mandate goes into effect on Monday, Sept. 27. All DOE-employed UFT members who do not qualify for an accommodation or exemption must have at least one dose of the vaccine by then.

Medical accommodations

Vaccinated UFT members with weakened immune systems due to a documented medical condition may apply via SOLAS for medical accommodation. These requests must be documented in writing by a medical doctor.

If the accommodation is approved, the immunocompromised member must be offered work in a non-school building as long as their medical condition lasts.

Medical exemptions

Permanent medical exemptions to the vaccine mandate will only be considered where the individual has a documented allergic reaction such that the member cannot receive any of the three authorized vaccines.

Temporary medical exemptions to delay the vaccine will be granted when:

- Within the isolation period after a positive COVID diagnosis
- Within 90 days of monoclonal antibody treatment of COVID-19
- Conditions that may warrant temporary medical exemption because of active therapy or treatment, such as chemotherapy, stem cell transplant, CAR T-cell therapy.
- Pericarditis or myocarditis

These requests must be documented in writing by a doctor.

In cases where members seek exemptions for medical conditions not on the above list, an independent arbitrator will decide if the exemption is appropriate.

If denied, the member will have one school day to file a notice of appeal. An independent arbitrator will promptly review the appeal — and convene a hearing if necessary — before issuing a final determination. During the appeal process, the member will be temporarily granted the exemption and kept on payroll.

Religious exemptions

Exemption requests will be considered for recognized and established religious organizations and not where the objection is personal, political or philosophical in nature. Applications for religious exemptions must be documented in writing by clergy or a religious official.

Appeals of religious exemption denials will be heard by the same independent arbitrators ruling on medical exemption appeals. During the appeal process, the member will be temporarily granted the exemption and kept on payroll.

Members in their last trimester of pregnancy

UFT members in their last trimester of pregnancy, whether vaccinated or not, have the option to go on leave immediately.

- First, members must exhaust their CAR days.
- If the member exhausts their CAR days before giving birth, the member can decide to start the six weeks of paid parental leave (if eligible) early.

Members in their first two trimesters of pregnancy must be vaccinated if they want to remain on payroll.

The UFT has organized a special virtual information session on Tuesday, Sept. 14, at 5 p.m. for members in their third trimester. [Register now »](#)

Options for all other UFT members

Members who are not vaccinated by Sept. 27 but do not qualify for a medical accommodation or an exemption must be offered two options, both of which include one year's health coverage:

1. Unpaid leave option:

UFT members may go on an official unpaid leave for up to one school year. The departure will be deemed involuntary and nondisciplinary for unemployment insurance purposes. The member cannot take other paid employment during this leave. They will continue to receive city health insurance through Sept. 5, 2022, as long as they do not take a job elsewhere. Their job will be held at their school for this period, too.

If at any time prior to Sept. 5, 2022, the member takes the vaccine, the member may return to work.

On Sept. 5, if the city's vaccine mandate remains in effect and the individual remains unvaccinated, the person will be automatically deemed voluntarily resigned.

These members must either get vaccinated or extend their leave by Nov. 30. Otherwise, they will be subject to disciplinary action.

2. Severance option:

Members who resign will be able to exchange their CAR days in their bank 1-for-1 up to 100 days (under ordinary circumstances, it is 2-for-1), though this time is not pensionable. They will also receive medical insurance for one year as long as they do not have access to other insurance coverage during that period.

Unvaccinated UFT members have until Oct. 29 to choose the severance option. Those who take this option do not have a right of return to their school, but they will not be prevented from seeking DOE employment in the future.

MLC lawsuit continues

The arbitrator's ruling does not resolve the underlying issue of whether the city Department of Health has the legal authority to require that DOE and other employees be vaccinated. Only the courts can determine the legality of the mandate.

The Municipal Labor Committee, of which the UFT is a member, filed a lawsuit challenging the mandate in state court this week. The UFT remains a party to that lawsuit.

Sincerely,

A handwritten signature in black ink that reads "Michael Mulgrew". The signature is written in a cursive, flowing style.

Michael Mulgrew

UFT President

EXHIBIT D

1st Denial of RE - Email from SOLAS (schools.nyc.gov)

09/17/2021

Your COVID Vaccine Religious Exemption Application - Determination

S

solas_donotreply@schools.nyc.gov

Fri 9/17/2021 4:32 PM



Report Phishing - Report phishing to help stop future attempts



Viva Insights

Like

Reply

To:

- Coombs [REDACTED]

09/17/2021

Case#: A73596

File# 753028

EMP ID: 359254

Dear [REDACTED] COOMBS,

We have reviewed your application and supporting documentation for a religious exemption from the DOE COVID-19 vaccine mandate. Your application has failed to meet the criteria for a religious based accommodation because, per the Order of the Commissioner of Health, unvaccinated employees cannot work in a school building without posing a direct threat to health and safety. Due to the configuration for the 2021 - 2022 school year, which includes no remote classwork, we cannot offer another worksite as an accommodation, as that would impose an undue hardship (i.e. more than a minimal burden) on the DOE and its operations.

This application was reviewed in accordance with applicable law as well as the Arbitration Award in the matter of the UFT and the Board of Education regarding the vaccine mandate.

Under the terms of the Arbitration Award, you may appeal this denial to an independent arbitrator. If you wish to appeal, you must do so within one school day of this notice by logging into SOLAS <https://dhrnycaps.nycenet.edu/SOLAS> and using the option "I would like to APPEAL". As part of the appeal, you may submit additional documentation and also provide a reason for the appeal.

Sincerely,

HR Connect

Medical, Leaves, and Records Administration

Please do not reply to this message via e-mail. This email address is automated.

Ref Number : GX5892573 N3418 VAX_ReligiousExempt_GenDenial (UFT Only)

Email received from NYC DOE DHC that we could apply for Religious Exemption

COVID-19 Vaccination Mandate Related Exemption or Accommodation Application

D

Division of Human Capital

Sat 9/18/2021 10:48 AM



To:

- Division of Human Capital

Dear Colleagues,

Dear Colleagues,

We are writing to let you know that DOE staff members may now apply in SOLAS for a COVID-19 Vaccination Mandate Related Exemption or Accommodation.

This COVID-19 Vaccine Related Exemption and Accommodation application is for:

- Religious Exemption requests to the mandatory vaccination policy
- Medical Exemption requests to the mandatory vaccination policy
- Medical Accommodation requests where an employee is vaccinated but is unable to mount an immune response to COVID-19 due to preexisting immune conditions.

Applications should be made via the following process:

- Applications must be made using the [Self-Service Online Leave Application System \(SOLAS\)](#).
- In SOLAS, employees should select the initial option to "Request Accommodation" and then the option to apply for an Exemption and Accommodation for COVID Vaccine-Related Reasons, and then indicate the category for the application.
- All applications require supporting documentation which must be submitted at the time of application.

More information can be found on the [Coronavirus Staff Update InfoHub page](#).

Thank you,

NYCDOE Division of Human Capital

EXHIBIT F

Notice of Receipt of Appeal Letter

Your Appeal

S

solas_donotreply@schools.nyc.gov

Mon 9/20/2021 2:51 PM



To:

- Coombs Sara

09/20/2021

Case#: A73596

File# 0753028

EMP ID: 359254

Dear SARA COOMBS,

This notification confirms the receipt of your appeal of your denial of a COVID-19 vaccine mandate related exemption or accommodation. This appeal and your application materials and documentation are being forwarded to Scheinman Arbitration and Mediation Services ("SAMS") and independent arbitrators convened by SAMS who will consider your appeal.

Supplemental documentation may be submitted within 48 hours of your filing of the appeal to SAMS by emailing the applicable address below. Please include your name and union in the subject line and send from your DOE email.

UFT: AppealsUFT@ScheinmanNeutrals.com

CSA: AppealsCSA@ScheinmanNeutrals.com

Local 237: AppealsTeamstersLocal237@ScheinmanNeutrals.com

Local 891: AppealsLocal891IUOE@ScheinmanNeutrals.com

Sincerely,

HR Connect

Medical, Leaves, and Records Administration

Please do not reply to this message via e-mail. This email address is automated.

Ref Number : GX5899179 N3425 COVID-19_VAX_Exemption_Appeal



SCHEINMAN
ARBITRATION & MEDIATION SERVICES

EXHIBIT G

September 10, 2021

Via E-Mail Only

Renee Campion, Commissioner
Steven H. Banks, Esq.
New York City Office of Labor Relations
The Office of Labor Relations
22 Cortlandt Street, 14th Floor
New York, NY 10007

Alan M. Klinger, Esq.
Stroock & Stroock & Lavan, L.L.P.
180 Maiden Lane, 33rd Floor
New York, NY 10038

Beth Norton, Esq.
Michael Mulgrew, President
United Federation of Teachers
52 Broadway, 14th Floor
New York, NY 10004

**Re: Board of Education of the City School District of the City of New York
and
United Federation of Teachers, Local 2, AFT, AFL-CIO
(Impact Bargaining)**

Dear Counsel:

Enclosed please find my Award in the above referenced matter.

Thank you.

Sincerely,


MFS/sk
BOE.UFT.Impact Bargaining.awd

-----	X	
In the Matter of the Arbitration		
	X	
between		
	X	
BOARD OF EDUCATION OF THE CITY		Re: Impact Bargaining
SCHOOL DISTRICT OF THE CITY OF	X	
NEW YORK		
	X	
"Department"		
	X	
-and-		
	X	
UNITED FEDERATION OF TEACHERS,		
LOCAL 2, AFT, AFL-CIO	X	
"Union"	X	
-----	X	

APPEARANCES

For the Department

Renee Campion, Commissioner of Labor Relations
Steven H. Banks, Esq., First Deputy Commissioner
and General Counsel of Labor Relations

For the Union

STROOCK & STROOCK & LAVAN, L.L.P.
Alan M. Klinger, Esq.

Beth Norton, Esq., UFT General Counsel
Michael Mulgrew, UFT President

BEFORE: Martin F. Scheinman, Esq., Arbitrator

BACKGROUND

The Union ("Union" or "UFT") protests the Department of Education's ("Department" or "DOE") failure to reach agreement on the impact of its decision mandating all employees working in Department buildings show proof they started the Covid-19 vaccination protocols by September 27, 2021. The Union contends the Department failed to adequately provide, among other things, for those instances where employees have proof of a serious medical condition making the vaccine a danger to their health, as well as for employees who have a legitimate religious objection to vaccines.

Most of the basic facts are not in dispute.

For those in the New York City ("NYC" or "City") metropolitan area, we are now in the 18th month of the Covid-19 pandemic. During that time, we have seen substantial illness and loss of life. There have been periods of significant improvement and hope, but sadly, we have seen resurgence with the Delta variant. Throughout this period, NYC and its municipal unions have worked collaboratively to provide needed services for the City's 8.8 million residents in as safe an environment as possible. Yet, municipal employees have often borne great risk. The Department and the UFT are no exception. The DOE and the UFT immediately moved to remote instruction and then later a hybrid model of both in-person and remote learning for the 2020-2021 school year. Educators at all levels strove to deliver the best experience possible under strained circumstances. For this

coming school year, both the DOE and the UFT have endeavored to return, as much as possible, to in-person learning. They have developed protocols regarding masking and distancing to effectuate a safe environment for the City's students and educators.

To this end, the Delta resurgence has complicated matters. In recognition of increased risk, there have been various policies implemented at City agencies and other municipal entities. Mayor de Blasio in July 2021 announced a "Vaccine-or-Test" mandate which essentially requires the City workforce, including the UFT's educators, either to be vaccinated or undergo weekly testing for the Covid-19 virus effective September 13, 2021.

Most relevant to this matter, on August 23, 2021, the Mayor and the NYC Commissioner of Health and Mental Hygiene, David A. Chokshi, MD, announced a new policy for those workforces in NYC DOE buildings. Those employees would be subject to a "Vaccine Only" mandate. That is, such employees would need to show by September 27, 2021, they had at least started the vaccination protocol or would not be allowed onto DOE premises, would not be paid for work and would be at risk of loss of job and benefits. This mandate was reflected in an Order of Commissioner Chokshi, dated August 24, 2021. That Order, by its terms, did not expressly provide for exceptions or accommodations for those with medical contraindications to vaccination or sincerely-held religious objections to inoculation. Nor did it address matters of due process with regard to job and benefits protection.

The UFT promptly sought to bargain the impact and implementation of the Vaccine Only mandate. A number of discussions were had by the parties but important matters remained unresolved.

On September 1, 2021, the UFT filed a Declaration of Impasse with the Public Employment Relations Board ("PERB") as to material matters. The City/DOE did not challenge the statement of impasse and PERB appointed me to mediate the matters. Given the exigencies of the imminent start of the school year and the coming of the September 27, 2021, mandate, together with the importance of the issues involved to the workforce, mediations sessions were held immediately on September 2, 3, 4 and 5, 2021, with some days having multiple sessions. Progress was made, and certain tentative understandings were reached, but significant matters remained unresolved. By agreement of the parties, the process moved to arbitration. They asked I serve as arbitrator.¹

Arbitration sessions were held on September 6 and 7, 2021. During the course of the hearings, both sides were given full opportunity to introduce evidence and argument in support of their respective positions. They did so. Both parties made strenuous and impassioned arguments reflecting their viewpoints on this entire issue.

During the course of these hearings, I made various interim rulings concerning the impact of the "Vaccine Only" mandate. I then

¹ My jurisdiction is limited to the issues raised during impact bargaining and not with regard to the decision to issue the underlying "Vaccine Only" order.

directed the parties to draft language reflecting those rulings. Even though I am very familiar with the language of the current Collective Bargaining Agreement, as well as the parties' relationship since I am a member of their permanent arbitration panel and have served as a fact-finder and mediator during several rounds of bargaining, I concluded the parties are more familiar with Department policy and how leave and entitlements have been administered in accordance with prior agreements. As such, my rulings reflect both the understandings reached during the negotiations prior to mediation, those reached in the mediation process and the parties' agreed upon language in response to my rulings. All are included, herein.

I commend the parties for their seriousness of purpose and diligence in addressing these complicated matters. The UFT made clear it supports vaccination efforts and has encouraged its members to be vaccinated. Nonetheless, as a Union, it owes a duty to its members to ensure their rights are protected. The City/DOE demonstrated recognition of the importance of these issues, particularly with regard to employees' legitimate medical or religious claims. I appreciate both parties' efforts in meeting the tight timeline we have faced and the professionalism they demonstrated serving the citizens of the City and what the million plus students deserved. They have invested immense effort to insure such a serious issue was litigated in such a thoughtful way.

Yet, in the end, it falls to me, as Arbitrator, to arrive at a fair resolution of the matters at hand.

This matter is one of the most urgent events I have been involved with in my forty (40) plus years as a neutral. The parties recognized the complexity of the issues before me, as well as the magnitude of the work that lies ahead to bring this conflict to completion in a timely manner. For this reason, they understood and accepted the scope and complexity of this dispute could not be handled by me alone. They agreed my colleagues at Scheinman Arbitration and Mediation Services ("SAMS") would also be involved.

I want to thank my colleagues at SAMS, especially Barry J. Peek, for their efforts and commitment to implementing the processes to resolve this matter. This undertaking could not be accomplished by any single arbitrator.

Opinion

After having carefully considered the record evidence, and after having the parties respond to countless inquiries. I have requested to permit me to make a final determination, I make the rulings set forth below. While some of the language has been drafted, initially, by the parties in response to my rulings, in the end the language set forth, herein, is mine alone. I hereby issue the following Award:

I. Exemption and Accommodation Requests & Appeal Process

As an alternative to any statutory reasonable accommodation

process, the City, the Board of Education of the City School District for the City of New York (the "DOE"), and the United Federation of Teachers, Local 2, AFT, AFL-CIO (the "UFT"), (collectively the "Parties") shall be subject to the following Expedited Review Process to be implemented immediately for full-time staff, H Bank and non-pedagogical employees who work a regular schedule of twenty (20) hours per week or more inclusive of lunch, including but not limited to Occupational Therapists and Physical Therapists, and Adult Education teachers who work a regular schedule of twenty (20) or more hours per week. This process shall only apply to (a) religious and medical exemption requests to the mandatory vaccination policy, and (b) medical accommodation requests where an employee is unable to mount an immune response to COVID-19 due to preexisting immune conditions and the requested accommodation is that the employee not appear at school. This process shall be in place for the 2021-2022 school year and shall only be extended by mutual agreement of the Parties.

Any requests to be considered as part of this process must be submitted via the SOLAS system no later than Monday, September 20, 2021, by 5:00 p.m.

- A. Full Medical Exemptions to the vaccine mandate shall only be considered where an employee has a documented contraindication such that an employee cannot receive any of the three (3) authorized vaccines (Pfizer, Moderna, J&J)—with contraindications delineated in CDC clinical

considerations for COVID-19 vaccination. Note that a prior immediate allergic reaction to one (1) type of vaccine will be a precaution for the other types of vaccines, and may require consultation with an allergist.

B. Temporary Medical Exemptions to the vaccine mandate shall only be based on the following valid reasons to defer or delay COVID-19 vaccination for some period:

- o Within the isolation period after a COVID-19 infection;
- o Within ninety (90) days of monoclonal antibody treatment of COVID-19;
- o Treatments for conditions as delineated in CDC clinical considerations, with understanding CDC guidance can be updated to include new considerations over time, and/or determined by a treating physician with a valid medical license responsible for the immunosuppressive therapy, including full and appropriate documentation that may warrant temporary medical exemption for some period of time because of active therapy or treatment (e.g., stem cell transplant, CAR T-cell therapy) that would temporarily interfere with the patient's ability to respond adequately to vaccination;
- o Pericarditis or myocarditis not associated with COVID-19 vaccination or pericarditis or myocarditis associated with COVID-19 vaccination.

Length of delay for these conditions may vary, and the employee must get vaccinated after that period unless satisfying the criteria for a Full Medical Exemption described, above.

C. Religious exemptions for an employee to not adhere to the mandatory vaccination policy must be documented in writing by a religious official (e.g., clergy). Requests shall be denied where the leader of the religious organization has spoken publicly in favor of the vaccine, where the documentation is readily available (e.g., from an online source), or where the objection is personal, political, or philosophical in nature. Exemption requests shall be considered for recognized and established religious organizations (e.g., Christian Scientists).

D. There are cases in which, despite an individual having sought and received the full course of the vaccination, he or she is unable to mount an immune response to COVID-19 due to preexisting immune conditions. In these circumstances, each individual case shall be reviewed for potential accommodation. Medical accommodation requests must be documented in writing by a medical doctor.

E. The initial determination of eligibility for an exemption or accommodation shall be made by staff in the Division of Human Capital in the Office of Medical, Leaves and Benefits; the Office of Equal Opportunity; and Office of Employee

Relations. These determinations shall be made in writing no later than Thursday, September 23, 2021, and, if denied, shall include a reason for the denial.

F. If the employee wishes to appeal a determination under the identified criteria, such appeal shall be made in SOLAS to the DOE within one (1) school day of the DOE's issuance of the initial eligibility determination. The request for appeal shall include the reason for the appeal and any additional documentation. Following the filing of the appeal, any supplemental documentation may be submitted by the employee to the Scheinman Arbitration and Mediation Services ("SAMS") within forty eight (48) hours after the filing of the appeal. If the stated reason for denial of a medical exemption or accommodation request is insufficient documentation, the employee may request from the arbitrator and, upon good cause shown, the arbitrator may grant an extension beyond forty eight (48) hours and permit the use of CAR days after September 27, 2021, for the employee to gather the appropriate medical documentation before the appeal is deemed submitted for determination.

G. A panel of arbitrators identified by SAMS shall hear these appeals, and may request the employee or the DOE submit additional documentation. The assigned arbitrator may also request information from City and/or DOE Doctors as part of the review of the appeal documentation. The assigned

arbitrator, at his or her discretion, shall either issue a decision on the appeal based on the documents submitted or hold an expedited (virtual) factual hearing. If the arbitrator requests a factual hearing, the employee may elect to have a union representative present but neither party shall be required to be represented by an attorney at the hearing. The expedited hearing shall be held via Zoom telecommunication and shall consist of brief opening statements, questions from the arbitrator, and brief closing statements. Cross examination shall not be permitted. Any documentation submitted at the arbitrator's request shall be provided to the DOE at least one (1) business day before the hearing or the issuance of the written decision without hearing.

H. Appeal decisions shall be issued to the employee and the DOE no later than Saturday September 25, 2021. Appeal decisions shall be expedited without full Opinion, and final and binding.

I. While an appeal is pending, the exemption shall be assumed granted and the individual shall remain on payroll consistent with Section K below. However, if a larger number of employees than anticipated have a pending appeal as of September 27, 2021, as determined by SAMS, SAMS may award different interim relief consistent with the parties' intent. Those employees who are vaccinated and have applied for an

accommodation shall have the ability to use CAR days while their application and appeal are pending. Should the appeal be granted, these employees shall be reimbursed any CAR days used retroactive to the date of their initial application.

J. The DOE shall cover all arbitration costs from SAMS under this process. To the extent the arbitrator requests additional medical documentation or information from the DOE, or consultation with City and/or DOE Doctors, arranging and paying for such documentation and/or consultation shall be the responsibility of the DOE.

K. An employee who is granted a medical or religious exemption or a medical accommodation under this process and within the specific criteria identified above shall be permitted the opportunity to remain on payroll, but in no event required/permitted to enter a school building while unvaccinated, as long as the vaccine mandate is in effect. Such employees may be assigned to work outside of a school building (e.g., at DOE administrative offices) to perform academic or administrative functions as determined by the DOE while the exemption and/or accommodation is in place. For those with underlying medical issues granted an accommodation under Section I(D), the DOE will make best efforts to ensure the alternate work setting is appropriate for the employee's medical needs. The DOE shall make best efforts to make these assignments within the same borough as

the employee's current school, to the extent a sufficient number of assignments exist in the borough. Employees so assigned shall be required to submit to COVID testing twice per week for the duration of the assignment.

L. The process set forth, herein, shall constitute the exclusive and complete administrative process for the review and determination of requests for religious and medical exemptions to the mandatory vaccination policy and accommodation requests where the requested accommodation is the employee not appear at school. The process shall be deemed complete and final upon the issuance of an appeal decision. Should either party have reason to believe the process set forth, herein, is not being implemented in good faith, it may bring a claim directly to SAMS for expedited resolution.

II. Leave

A Any unvaccinated employee who has not requested an exemption pursuant to Section 1, or who has requested an exemption which has been denied, may be placed by the DOE on leave without pay effective September 28, 2021, or upon denial of appeal, whichever is later, through November 30, 2021. Such leave may be unilaterally imposed by the DOE and may be extended at the request of the employee consistent with Section III(B), below. Placement on leave without pay for these reasons shall not be considered a disciplinary action for any purpose.

- B. Except as otherwise noted, herein, this leave shall be treated consistent with other unpaid leaves at the DOE for all purposes.
- C. During such leave without pay, employees shall continue to be eligible for health insurance. As with other DOE leaves without pay, employees are prohibited from engaging in gainful employment during the leave period.
- D. Employees who become vaccinated while on such leave without pay and provide appropriate documentation to the DOE prior to November 30, 2021, shall have a right of return to the same school as soon as is practicable but in no case more than one (1) week following notice and submission of documentation to the DOE.
- E. Pregnancy/Parental Leave
 - i. Any soon-to-be birth mother who starts the third trimester of pregnancy on or before September 27, 2021, (e.g. has a due date no later than December 27, 2021), may commence UFT Parental Leave prior to the child's birth date, but not before September 27, 2021.
 - ii. No documentation shall be necessary for the early use of Parental Leave, other than a doctor's Written assertion the employee is in her third trimester as of September 27, 2021.
 - iii. Eligible employees who choose to start Parental Leave prior to the child's birth date, shall be required to first use CAR days until either: 1) they exhaust CAR/sick days,

at which point the Parental Leave shall begin, or 2) they give birth, at which point they shall be treated as an approved Parental Leave applicant for all purposes, including their prerogative to use additional CAR days prior to the commencement of Parental Leave.

- iv. Eligible employees who have a pregnancy disability or maternity disability outside of the regular maternity period may, in accordance with existing rules, borrow CAR/sick days and use a Grace Period. This eligibility to borrow CAR/sick days does not apply to employees during the regular maternity recovery period if they have opted to use Parental Leave.
- v. In the event an eligible employee exhausts CAR/sick days and parental leave prior to giving birth, the employee shall be placed on a leave without pay, but with medical benefits at least until the birth of the child. As applicable, unvaccinated employees may be placed in the leave as delineated in Section II(A).
- vi. If not otherwise covered by existing Family Medical Leave Act ("FMLA") or leave eligibility, an employee who takes Parental Leave before the birth of the child shall be eligible to be on an unpaid leave with medical benefits for the duration of the maternity recovery period (i.e., six weeks after birth or eight weeks after a birth via C-Section)

vii. All other eligibility and use rules regarding UFT Parental Leave as well as FMLA remain in place.

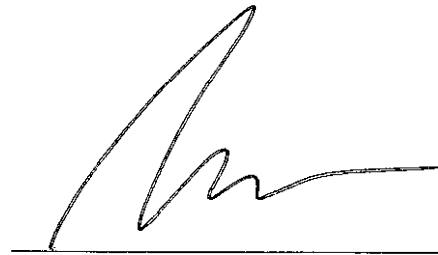
III. Separation

A During the period of September, 28, 2021, through October 29, 2021, any employee who is on leave without pay due to vaccination status may opt to separate from the DOE. In order to separate under this Section and receive the commensurate benefits, an employee must file a form created by the DOE which includes a waiver of the employee's rights to challenge the employee's involuntary resignation, including, but not limited to, through a contractual or statutory disciplinary process. If an employee opts to separate consistent with this Section, the employee shall be eligible to be reimbursed for unused CAR days on a one (1) for one (1) basis at the rate of 1/200th of the employee's salary at departure per day, up to 100 days, to be paid following the employee's separation with documentation including the general waiver and release. Employees who elect this option shall be deemed to have resigned involuntarily effective on the date contained in the general waiver as determined by the DOE, for non-disciplinary reasons. An employee who separates under this Section shall continue to be eligible for health insurance through September 5, 2022, unless they are eligible for health insurance from another source (e.g., a spouse's coverage or another job).

- B. During the period of November 1, 2021, through November 30, 2021, any employee who is on leave without pay due to vaccination status may alternately opt to extend the leave through September 5, 2022. In order to extend this leave pursuant to this Section, and continue to receive the commensurate benefits, an employee must file a form created by the DOE which includes a waiver of the employee's rights to challenge the employee's voluntary resignation, including, but not limited to, through a contractual or statutory disciplinary process. Employees who select this option shall continue to be eligible for health insurance through September 5, 2022. Employees who comply with the health order and who seek to return from this leave, and so inform the DOE before September 5, 2022, shall have a right to return to the same school as soon as is practicable but in no case more than two (2) weeks following notice to the DOE. Existing rules regarding notice of leave intention and rights to apply for other leaves still apply. Employees who have not returned by September 5, 2022, shall be deemed to have voluntarily resigned.
- C. Beginning December 1, 2021, the DOE shall seek to unilaterally separate employees who have not opted into separation under Sections III(A) and III(B). Except for the express provisions

contained, herein, all parties retain all legal rights at all times relevant, herein.

September 10, 2021.

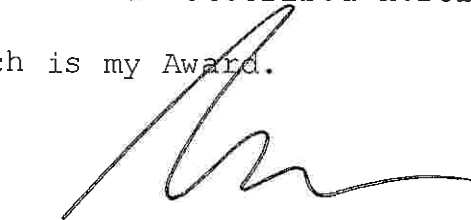


Martin F. Scheinman, Esq.
Arbitrator

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

I, MARTIN F. SCHEINMAN, ESQ., do hereby affirm upon my oath as Arbitrator that I am the individual described herein and who executed this instrument, which is my Award.

September 10, 2021.



Martin F. Scheinman, Esq.
Arbitrator

EXHIBIT H

Appeal Pending Letter from DHC

Status of Your Application/Appeal for a Covid-19 Vaccine Mandate Related Exemption or Accommodation

D

Division of Human Capital

Mon 9/27/2021 6:17 PM



Colleague,

According to our records, you have a pending appeal with the Arbitrators on your application for a COVID-19 Vaccine Mandate Related Exemption or Accommodation. Until a specific date for implementation of the vaccine mandate is announced, the current vaccine or weekly testing mandate remains in place and **you must continue to report to your regular assignment and work location until further notice.** If you work at a school and need to be tested, you will likely be able to do so as part of the weekly testing occurring in your school building.

We will continue to share information as it becomes available. If/when the vaccine mandate goes into effect, if you have a decision from the Arbitrators granting your appeal or if your appeal remains pending at that time, you will be advised on your next step for where to report.

Thank you,

Division of Human Capital

1 page document received showing arbitration was DENIED

Vaccine Appeals <VaccineAppeals@scheinmanneutrals.com>

Sat 9/25/2021 4:42 PM

To:

- Coombs Sara

Cc:

- VaxAppealDecisions;
- COVID Vaccine Appeals

+2 others

UFT.283-SARA-COOMBS-AWARD.pdf

65 KB

Dear Sara Coombs,

Enclosed, please find your decision of the Arbitrator from Scheinman Arbitration and Mediation Services (SAMS).

Sincerely,

Scheinman Arbitration and Mediation Services

SCHEINMAN ARBITRATION AND MEDIATION SERVICES

----- X

In the Matter of the Arbitration X

between X

NEW YORK CITY DEPARTMENT OF EDUCATION

Re:UFT.283 X and X Sara Coombs X

----- X

Issue: Religious Exemption Date of Hearing:

September 23, 2021

Award APPLICATION FOR EXEMPTION: GRANTED [] DENIED [x] OTHER [] September 23,
2021

Arbitrator Date

EXHIBIT J

Another email received from NYC DOE - Deadline to upload Vaccine or be placed on LWOP

DOE Vaccination Portal

N

NYCDOE <noreply@schools.nyc.gov>

Tue 9/28/2021 4:12 PM



To:

- Coombs Sara



Dear Colleague,

You are receiving this email because our records indicate that you have not yet used the **DOE Vaccination Portal** to submit proof that you have received at least one dose of a COVID-19 vaccine, as required by the DOE's [COVID-19 Vaccine Mandate](#). **The deadline to upload this information is 11:59pm on Friday, October 1.**

If you fail to meet this deadline, you will be removed from payroll and placed on Leave Without Pay status (LWOP) beginning Monday, October 4, unless you are on an approved vaccine exemption or leave, you will not receive compensation. **Additionally you may not use annual leave, CAR or sick time in lieu of Leave Without Pay.**

In order to avoid being placed on LWOP status, you must use the DOE Vaccination Portal to upload your proof of vaccination no later than October 4.

If you have an approved vaccine exemption, or an approved leave your status will be updated shortly. Employees in certain titles including substitutes will be placed in another inactive status, not a leave without pay.

For more information about where to get vaccinated, visit vaccinefinder.nyc.gov or call 877-VAX-4-NYC.

For the latest COVID-19 staffing updates, please [visit the Coronavirus Staff Update InfoHub page](#).

If you encounter technical issues using the Vaccination Portal, please contact the DOE Help Desk by [opening a ticket](#) online or calling 718-935-5100.

Sincerely,

DOE Vaccination Portal Team

EXHIBIT K

Email received from Principal Ricci to vaccinate by 10-1-21 11:59pm or be placed on LWOP

Vaccination Mandate

RA

Ricci Alixandre

Fri 10/1/2021 1:28 PM



To:

- Ricci Alixandre

Cc:

- Bentsen Patrick;
- Rivera Caroline;
- Rubel Randi

Good Afternoon,

Please note that as of today, **FRIDAY OCTOBER 1st**, you are listed as non-compliant on the **DOE Vaccination portal**.

As of **Monday October 4th** all DOE Employees must be vaccinated.

Below is the guidance directly from the DOE info hub:

- Unvaccinated staff, who do not have an approved exemption or leave, **will be removed from payroll beginning Monday, October 4 if they are not vaccinated by end of day Friday, October 1.**
-
- Unvaccinated staff must submit proof of vaccination by 11:59pm on Friday, October 1 in the [DOE Vaccination Portal](#)

***If you will not be returning Monday please make sure you return any CMSP device you have to Mr. Yan.**

Notice of LWOP email received from NYC DOE Division of Human Capital

Notice of Leave Without Pay - PLEASE READ

NYCDOE <noreply@schools.nyc.gov>

Sat 10/2/2021 3:12 PM



More actions

To:

- Coombs [REDACTED]



Dear [REDACTED] Coombs,

Dear [REDACTED] Coombs,

You are receiving this message because **you are being placed on a Leave Without Pay (LWOP) because you are not in compliance with the DOE's [COVID-19 Vaccine Mandate](#)**. If you are a substitute or in certain titles you have been placed in another inactive status, not a LWOP. **This means you must not report to your work or school site beginning Monday, October 4th.**

While you are on Leave Without Pay (LWOP), you:

- Cannot work and will not receive compensation, but you will continue your medical benefits
- Cannot use annual leave, CAR or sick time
- Cannot enter your work or school site
- Cannot reach out to students or families

In order to return from LWOP status, you must complete two steps using the [DOE Vaccination Portal](#)

1. Upload proof that you have received your first dose of a COVID-19 vaccine. **Proof of COVID-19 Vaccine can be an image of your vaccination card, NYS Excelsior Pass, or another government record**
2. E-sign the attestation stating that you are willing to return to your worksite within seven calendar days of submission.

Once you have completed these two steps, your HR Director and supervisor will also be notified and will work with you to plan your return date.

If you have been vaccinated this weekend and upload this information by Monday morning, you may report to work as usual on Monday, October 4th, and you will be put back on active status.

On Monday, October 4th, if you have an acceptable proof of vaccination (e.g., vaccination card, NY State Excelsior pass, or other government record) but have not been able to upload to the [DOE Vaccination Portal](#), you may show your proof to the School Safety Agent and/or Principal (or designee) at the door. You will be allowed in the building, and you must immediately upload proof of vaccination to the Vaccination Portal and confirm that you would like to return to work in order to ensure there is no break in payroll.

If you encounter technical issues accessing the Vaccination Portal, please contact the DOE Help Desk by [opening a ticket online](#) or calling 718-935-5100. If you need support uploading your proof of vaccination, please contact your principal or HRD who can do so on your behalf.

Please be advised that if you do not intend to return to the DOE after October 1, 2021, you will need to return all DOE property, including computers, IDs, blackberries, and keys, immediately. Failure to return any DOE property that has been assigned to you will delay the processing of your final payment and any payout of leave time.

Employees represented by UFT or CSA who have been placed on LWOP due to vaccination status may select (in SOLAS) special separation or leave options per the arbitration award:

- **Separation with benefits** (available in SOLAS as of Monday, October 4): Employees choosing to separate under this option:
 - **Must share their intention to separate via SOLAS by October 29, 2021.**
 - Will be required to waive their rights to challenge the involuntary resignation, including, but not limited to, through a contractual or statutory disciplinary process
 - Will be eligible to be reimbursed for unused CAR/sick leave on a one-for-one basis at the rate of 1/200th of the employee's salary at departure per day, up to 100 days, to be paid out following the employee's separation

- Will be eligible to maintain health insurance through September 5, 2022, unless they have health insurance available from another source.
- **Extend the leave without pay due to vaccination status through September 5, 2022** (available in SOLAS as of Monday, November 1 through November 30, 2021):
 - Employees choosing this option will also be required to waive their rights to challenge their involuntary resignation, including, but not limited to, through a contractual or statutory discipline process
 - They will remain eligible for health insurance through September 5, 2022
 - Employees who have not returned by September 5, 2022 shall be deemed to have voluntarily resigned
- Beginning December 1, 2021, the DOE will seek to unilaterally separate employees who have not selected one of the options above or otherwise separated service.

For more information about where to get vaccinated, visit vaccinefinder.nyc.gov or call 877-VAX-4-NYC. For the latest COVID-19 staffing updates, please [visit the Coronavirus Staff Update InfoHub page](#).

Sincerely,

NYCDOE Division of Human Capital

***Please also return your room keys and elevator key to Ms. Gonzalez in the main office.**

***You should take all of your personal belongings with you when you leave today, Friday 10/1.**

Thank You,

Alix Ricci, Principal
CMSP 327
1501 Jerome Avenue
Bronx, New York 10452
718.294.8111
aricci2@schools.nyc.gov

Mayor's Announcement re: vaccination requirements for City employees

Chancellor Meisha Porter

Mon 7/26/2021 7:04 PM



To:

- Chancellor Meisha Porter

Dear Colleagues,

I hope this summer is treating you well! As we begin to gear up for the 2021-22 school year, I hope you're all getting time to restore before heading into our year of homecoming.

This morning, the Mayor made an important announcement about health and safety requirements for all City workers, which includes all DOE employees. Effective September 13, 2021, all DOE employees must have proof they are vaccinated for COVID-19 or, if not vaccinated, be tested for COVID-19 on a weekly basis. Employees who have received at least one dose of the COVID-19 vaccine by September 13th will not have to submit weekly test results while they complete their full vaccination.

We encourage all staff who have not completed their COVID-19 vaccination to do so as soon as possible. More information about locations where New Yorkers can receive a vaccine for COVID-19 can be found at vaccinefinder.nyc.gov. To be fully vaccinated by September 13, employees would need to receive the following vaccines by these dates:

- Moderna: first dose by August 2
- Pfizer: first dose by August 9
- Johnson & Johnson: single dose by August 30

The City is also reinforcing its current mask guidance for City workers. Unvaccinated employees must wear a mask indoors at their worksite, while vaccinated City employees who do not interact with the public are currently not required to wear masks at their

workstations, though they may choose to continue to do so. City workers who interact with the public including students and their families, must continue to wear masks at all times regardless of vaccination status. In addition, all employees must still wear a face covering when entering the buildings, travelling to their workspace, and in elevators.

We will continue to share updates on health and safety policies and protocols for schools as well as borough and central offices leading up to the first day of school. Thank you for all you are doing to keep yourself, your loved ones, your colleagues and the students you serve safe.

In partnership,

Meisha

Same email on 7-27-21 but from The City of NY

Update on COVID-19 Safety Requirement

Some content in this message has been blocked because the sender isn't in your Safe senders list. I trust content from noreply@employeeenews.nyc.gov. | Show blocked content

Some content in this message has been blocked because the sender isn't in your Safe senders list.

T

The City of New York <noreply@employeeenews.nyc.gov>

Tue 7/27/2021 8:03 PM



To:

- Coombs Sara

Dear Colleagues,

I want to take a moment to thank all of you for your tireless dedication this past year and a half. Whether you're in the office or in our communities, New York City's employees stepped up to keep the city safe and moving forward. As a result, we made enormous strides in our fight against COVID-19, even before the vaccination stage of our response.

But as you know, nothing can provide a higher level of protection against the virus or do more to speed the city's recovery than vaccines, which are safe and lifesaving, and which we have made free and accessible all over the city.

To protect each other and those we serve, and to set an example for our fellow New Yorkers, the Mayor has announced that all City employees and contractors will soon be responsible for meeting the COVID-Safe Requirement, to be phased in from August 2nd to September 13th. This policy requires all City employees and contractors to show either one-time proof of vaccination or a negative COVID-19 test once every seven days.

Convenient and community-based vaccination sites are accessible via nyc.gov/vaccinefinder or by calling 877-VAX-4-NYC.

For those who choose instead to be tested weekly, [a diagnostic PCR test](#) -- which has the highest level of accuracy -- will be required. Most PCR tests must be sent to a lab for processing and come back within one or two days, but some are rapid and can yield a result while you wait. Either is acceptable for meeting the COVID-Safe Requirement. There are hundreds of PCR testing locations in the five boroughs; the list can be found at [nyc.gov/covidtest](#). If you'd like to receive a test specifically at a City-sponsored site, that list can be found here: <https://www.nychealthandhospitals.org/test-and-trace/testing/>.

While testing is available it cannot replace the moral and health imperative to get vaccinated. I urge you in the strongest of terms: it is time to get vaccinated if you have not already. By not getting vaccinated you are putting yourself, your loved ones, and your City at risk. Vaccination is safe, effective, and free. It is the best thing we can do to keep each other, our loved ones, and all New Yorkers safe.

Thank you,

Dave A. Chokshi, MD, MSc

Commissioner

NYC Department of Health and Mental Hygiene

Please do not reply to this message.

Mayor's Announcement re: vaccination requirements for City employees

Chancellor Meisha Porter

Mon 7/26/2021 7:04 PM



To: Chancellor Meisha Porter

- Chancellor Meisha Porter

Dear Colleagues,

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But as you know, nothing can provide a higher level of protection against the virus or do more to speed the city's recovery than vaccines, which are safe and lifesaving, and which we have made free and accessible all over the city.

To protect each other and those we serve, and to set an example for our fellow New Yorkers, the Mayor has announced that all City employees and contractors will soon be responsible for meeting the COVID-Safe Requirement, to be phased in from August 2nd to September 13th. This policy requires all City employees and contractors to show either one-time proof of vaccination or a negative COVID-19 test once every seven days.

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While testing is available it cannot replace the moral and health imperative to get vaccinated. I urge you in the strongest of terms: it is time to get vaccinated if you have not already. By not getting vaccinated you are putting yourself, your loved ones, and your City at risk. Vaccination is safe, effective, and free. It is the best thing we can do to keep each other, our loved ones, and all New Yorkers safe.

Thank you,

Dave A. Chokshi, MD, MSc

Commissioner

NYC Department of Health and Mental Hygiene

Please do not reply to this message.

Vaccine Portal

DOE Vaccination Portal

D

Division of Human Capital

Thu 8/12/2021 11:33 AM



Report Phishing - Report phishing to help stop future attempts



To:

- Division of Human Capital

Dear Colleagues,

Recently, Mayor de Blasio announced that as of September 13, 2021, all City employees, including DOE employees, are required to provide proof of COVID-19 vaccination or a negative COVID-19 test once every seven days. Employees who have received at least one dose of the COVID-19 vaccine by September 13 will not have to submit weekly test results. (Employees who have one dose but who are not fully vaccinated by September 13 will still be expected to update their records when fully vaccinated to continue to be exempt from the weekly testing requirement.)

In order to be exempt from the weekly testing requirement, you must submit proof of vaccination using the DOE's Vaccination Portal, here: <https://vaccine.schools.nyc/>. For more information and updates, visit the [COVID-19 Vaccination Portal page](#) on the DOE InfoHub.

The Vaccination Portal allows you to provide the DOE your vaccination status and to upload proof of vaccination, which can be an image of your vaccination card, NYS Excelsior Pass, or other government record. Submitting this information will support New York City's pandemic response and recovery efforts, and help ensure that the DOE is a safe place to work for all employees.

The portal will also be enhanced to allow staff who do not submit proof of vaccination to submit the required weekly COVID-19 test results. More details regarding the weekly COVID testing requirement will be shared prior to September 13.

The privacy and security of your information will be protected by technical, physical, and administrative safeguards, including encryption. This information will be kept confidential in accordance with federal, state, and local laws. If you encounter technical issues using the Vaccination Portal, please contact the DOE Help Desk by [opening a ticket online](#) or calling 718-935-5100.

For more information about where to get vaccinated, visit vaccinefinder.nyc.gov or call 877-VAX-4-NYC.

For more information on where to get tested, visit

<https://www.nychealthandhospitals.org/covid-19-testing-sites/>.

Sincerely,

Reminder of Vaccine Requirement no option for med exemption or testing mentioned

Reminder: Vaccination Requirement as of 9/27

D

Division of Human Capital

Wed 9/1/2021 2:16 PM



Like

To:

- Division of Human Capital

Dear Colleagues,

As we begin the new school year, and as office staff prepare for a return to working full time in DOE buildings, we want to remind you that all DOE employees are required to have received to have at least one dose of a COVID-19 vaccine by September 27. As an additional health and safety measure, all DOE staff and contractors will be required to wear face coverings at all times in DOE buildings, including administrative office buildings, except while eating or drinking.

You must use the [DOE's Vaccination Portal](#) to upload your proof of vaccination no later than September 27. Proof of vaccination can be an image of your vaccination card, NYS Excelsior Pass, or other government record. This information will be kept confidential in accordance with federal, state, and local laws. If you encounter technical issues using the Vaccination Portal, please contact the DOE Help Desk by [opening a ticket online](#) or by calling 718-935-5100.

Additionally, we are pleased to announce that during the first week of school the DOE will be hosting vaccination sites in every school with students aged 12 or older—approximately 700 locations. DOE employees can also make use of vaccination sites in our Central and borough offices—details are below:

65 Court Street, Brooklyn – K801

Dates: September 2,3 and September 9,10

Hours: 10 a.m.-5 p.m.

Interior: Room 101

44-36 Vernon Blvd – Q801

Dates: September 2,3 and September 9,10

Hours: 10 a.m.-5 p.m.

Interior: Room 501

52 Chambers Street, Manhattan – M860

Dates: September 2,3 and September 9,10

Hours: 12-5 p.m.

Exterior: Mobile Bus

Region 2 ROC B – 1230 Zerega Avenue, Bronx – X833

Dates: September 2,3 and September 9,10

Hours: 12-5 p.m.

Exterior: Mobile Bus

Petrides Complex Building A – 715 Ocean Terrace, SI – R080

Dates: September 2,3 and September 9,10

Hours: 12-5 p.m.

Interior: Petrides A Bldg

Thank you,

NYCDOE Division of Human Capital

Email received from NYC DOE DHC that we could apply for Religious Exemption

COVID-19 Vaccination Mandate Related Exemption or Accommodation Application

D

Division of Human Capital

Sat 9/18/2021 10:48 AM



To:

- Division of Human Capital

Dear Colleagues,

Dear Colleagues,

We are writing to let you know that DOE staff members may now apply in SOLAS for a COVID-19 Vaccination Mandate Related Exemption or Accommodation.

This COVID-19 Vaccine Related Exemption and Accommodation application is for:

- Religious Exemption requests to the mandatory vaccination policy
- Medical Exemption requests to the mandatory vaccination policy
- Medical Accommodation requests where an employee is vaccinated but is unable to mount an immune response to COVID-19 due to preexisting immune conditions.

Applications should be made via the following process:

- Applications must be made using the [Self-Service Online Leave Application System \(SOLAS\)](#).
- In SOLAS, employees should select the initial option to "Request Accommodation" and then the option to apply for an Exemption and Accommodation for COVID Vaccine-Related Reasons, and then indicate the category for the application.
- All applications require supporting documentation which must be submitted at the time of application.

More information can be found on the [Coronavirus Staff Update InfoHub page](#).

Thank you,

NYCDOE Division of Human Capital

Notice of Receipt of Appeal Letter

Your Appeal

S

solas_donotreply@schools.nyc.gov

Mon 9/20/2021 2:51 PM



To:

- Coombs Sara

09/20/2021

Case#: A73596

File# 0753028

EMP ID: 359254

Dear SARA COOMBS,

This notification confirms the receipt of your appeal of your denial of a COVID-19 vaccine mandate related exemption or accommodation. This appeal and your application materials and documentation are being forwarded to Scheinman Arbitration and Mediation Services ("SAMS") and independent arbitrators convened by SAMS who will consider your appeal.

Supplemental documentation may be submitted within 48 hours of your filing of the appeal to SAMS by emailing the applicable address below. Please include your name and union in the subject line and send from your DOE email.

UFT: AppealsUFT@ScheinmanNeutrals.com

CSA: AppealsCSA@ScheinmanNeutrals.com

Local 237: AppealsTeamstersLocal237@ScheinmanNeutrals.com

Local 891: AppealsLocal891IUOE@ScheinmanNeutrals.com

Sincerely,

HR Connect

Medical, Leaves, and Records Administration

Please do not reply to this message via e-mail. This email address is automated.

Ref Number : GX5899179 N3425 COVID-19_VAX_Exemption_Appeal

Vaccine Portal

DOE Vaccination Portal

D

Division of Human Capital

Thu 8/12/2021 11:33 AM



Report Phishing - Report phishing to help stop future attempts



To:

- Division of Human Capital

Dear Colleagues,

Recently, Mayor de Blasio announced that as of September 13, 2021, all City employees, including DOE employees, are required to provide proof of COVID-19 vaccination or a negative COVID-19 test once every seven days. Employees who have received at least one dose of the COVID-19 vaccine by September 13 will not have to submit weekly test results. (Employees who have one dose but who are not fully vaccinated by September 13 will still be expected to update their records when fully vaccinated to continue to be exempt from the weekly testing requirement.)

In order to be exempt from the weekly testing requirement, you must submit proof of vaccination using the DOE's Vaccination Portal, here: <https://vaccine.schools.nyc/>. For more information and updates, visit the [COVID-19 Vaccination Portal page](#) on the DOE InfoHub.

The Vaccination Portal allows you to provide the DOE your vaccination status and to upload proof of vaccination, which can be an image of your vaccination card, NYS Excelsior Pass, or other government record. Submitting this information will support New York City's pandemic response and recovery efforts, and help ensure that the DOE is a safe place to work for all employees.

The portal will also be enhanced to allow staff who do not submit proof of vaccination to submit the required weekly COVID-19 test results. More details regarding the weekly COVID testing requirement will be shared prior to September 13.

The privacy and security of your information will be protected by technical, physical, and administrative safeguards, including encryption. This information will be kept confidential in accordance with federal, state, and local laws. If you encounter technical issues using the Vaccination Portal, please contact the DOE Help Desk by [opening a ticket online](#) or calling 718-935-5100.

For more information about where to get vaccinated, visit vaccinefinder.nyc.gov or call 877-VAX-4-NYC.

For more information on where to get tested, visit

<https://www.nychealthandhospitals.org/covid-19-testing-sites/>.

Sincerely,

Letter from Principal Alixandre Ricci

Covid 19 Vaccination Requirement

RA

Ricci Alixandre

Tue 9/21/2021 9:18 AM



To:

- Ricci Alixandre

Good Morning,

This is a reminder that you are required to show proof of your Covid 19 vaccination on the DOE's Vaccination Portal by **September 27th 2021**.

As of 9/21/21 you are listed as non-compliant on the DOE Vaccination Site.

Please visit the DOE Info Hub for more information and/or speak to your union representative. If you need assistance uploading your documentation, please let your union representative know - or I am happy to help 😊

Thank You,

Alix Ricci, Principal

CMSP 327

1501 Jerome Avenue

Bronx, New York 10452

718.294.8111

aricci2@schools.nyc.gov

DHC email stating any employee who fails to meet the 9-27-21 vaccine deadline will be removed from payroll beginning 9-28-21.

From: Division of Human Capital <DHC@schools.nyc.gov>

Sent: Thursday, September 23, 2021 5:38 PM

To: Division of Human Capital <DHC@schools.nyc.gov>

Subject: Consequences for Mandate Non-Compliance

Dear Colleagues,

This email is a reminder that all DOE employees must submit proof that they have received at least one dose of a COVID-19 vaccine no later than **Monday, September 27**, as required by the DOE's [COVID-19 Vaccine Mandate](#).

Any regular employees who fail to meet this deadline will be removed from payroll beginning Tuesday, September 28, unless they are on an approved vaccine exemption or leave.

This means that they will be placed on Leave Without Pay (LWOP). While on this status, employees:

- Are not allowed to enter their work or school site until they have taken corrective action to comply with the terms of the mandate
- Are not able to work and will not receive compensation
- Cannot use annual leave, CAR or sick time

If you have not yet uploaded your proof of vaccination to the [DOE Vaccination Portal](#), you must do so no later than September 27 in order to avoid being removed from payroll and placed on LWOP status.

For more information about where to get vaccinated, visit vaccinefinder.nyc.gov or call 877-VAX-4-NYC.

For the latest COVID-19 staffing updates, please [visit the Coronavirus Staff Update InfoHub page](#).

If you encounter technical issues using the Vaccination Portal, please contact the DOE Help Desk by [opening a ticket online](#) or calling 718-935-5100.

For return-to-office questions please email stayinghealthy@schools.nyc.gov.

For compliance questions please email employeerelations@schools.nyc.gov.

Sincerely,

NYCDOE Division of Human Capital

Another email from Principal Ricci with the consequences of non-compliance

Consequences for Mandate Non-Compliance

RA

Ricci Alixandre

Fri 9/24/2021 8:55 AM



To:

- Ricci Alixandre

Good Morning,

As of today, **FRIDAY SEPTEMBER 24th**, you are listed as Non-Compliant on the DOE Vaccination Portal. By **MONDAY SEPTEMBER 27th** ALL DOE employees must be vaccinated.

Below you will find the latest e-mail from the DOE. Please read this email carefully. If you need assistance uploading your vaccination information to the portal I would be happy to help! If you need more information about anything please see your Union Representative, or check the DOE info hub for the latest guidance.

Thank You,

Alix Ricci, Principal

CMSP 327

1501 Jerome Avenue

Bronx, New York 10452

718.294.8111

aricci2@schools.nyc.gov

Reply

Forward

From: Division of Human Capital <DHC@schools.nyc.gov>

Sent: Thursday, September 23, 2021 5:38 PM

To: Division of Human Capital <DHC@schools.nyc.gov>

Subject: Consequences for Mandate Non-Compliance

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If you have not yet uploaded your proof of vaccination to the [DOE Vaccination Portal](#), you must do so no later than September 27 in order to avoid being removed from payroll and placed on LWOP status.

For more information about where to get vaccinated, visit vaccinefinder.nyc.gov or call 877-VAX-4-NYC.

For the latest COVID-19 staffing updates, please [visit the Coronavirus Staff Update InfoHub page](#).

If you encounter technical issues using the Vaccination Portal, please contact the DOE Help Desk by [opening a ticket online](#) or calling 718-935-5100.

For return-to-office questions please email stayinghealthy@schools.nyc.gov.

For compliance questions please email employeerelations@schools.nyc.gov.

Sincerely,

NYCDOE Division of Human Capital

9-26-21 Email from chancellor Meisha Porter

Important Updates for the Week of September 27

Chancellor Meisha Porter

Sun 9/26/2021 7:44 PM



More actions

Dear Colleagues,

Thank you again for your tireless work so far this year. It is yet another unprecedented year for our schools, and your commitment to doing all we can to support our students and school communities is unparalleled.

As a follow-up to my note yesterday, I wanted to share a few updates with you.

1. **All staff must report to work on Tuesday, September 28 and until further notice.** This includes staff who are not yet vaccinated and those who applied for a vaccine exemption.
2. **Our court date is set for Wednesday, September 29.** We are confident that we will be able to proceed with our vaccine mandate for all staff; our students, school communities and colleagues deserve no less. For those who have not yet submitted their proof of vaccination, please do so as soon as possible using the [DOE Vaccination Portal](#).
3. **We've set up 90 vax sites across the city for staff.** In partnership with the City, we are standing up 90 outdoor vaccination sites tomorrow, Monday, September 27, to provide opportunities for staff to get vaccinated. The list of vaccination sites is here: <https://www.schools.nyc.gov/PopUp>
- 4.
5. **This week, staff must have proof of vaccine or negative Covid test results.** To comply with this State mandate, unvaccinated staff should upload their Covid test results in the [DOE Vaccination Portal](#) by the end of the week.

Thank you again for all you do; I see and appreciate the work you do every day in service of our students.

In partnership,
Meisha

Meisha Porter

Chancellor, New York City Public Schools

She/her/hers

New York City Department of Education

52 Chambers Street | New York, NY 10007



Implementation of Staff Vaccine 10-4-21

Important Update: Vaccine Mandate Now Effective October 4

Chancellor Meisha Porter

Mon 9/27/2021 8:59 PM



Viva Insights

Dear Colleagues,

Thank you again for all the work you do to support schools.

I am writing to share an update on the staff vaccine mandate. This evening, the Second Circuit dissolved the temporary injunction placed on the vaccine mandate. A hearing was originally scheduled for this Wednesday, but the court made the decision to rule on the mandate today.

This means that the DOE staff vaccine mandate can now go into effect. **The DOE will begin implementing the staff vaccine mandate on Monday, October 4.**

Here is what this means for active staff who have not yet submitted their vaccination proof:

- You must report to work this week, and upload a proof of negative COVID test result in the [DOE Vaccination Portal](#).
- You must submit your proof of vaccination by 11:59pm on Friday, October 1 in the [DOE Vaccination Portal](#) (unless you have an approved exemption).
- You will be removed from payroll beginning Monday, October 4 if you are not vaccinated by end of day Friday, October 1.

If you have any questions, please reach out to your supervisor.

Thank you again for you again for all you do in service of our students.

In partnership,
Meisha

Meisha Porter

Chancellor, New York City Public Schools

She/her/hers

New York City Department of Education

52 Chambers Street | New York, NY 10007



Implementation of Staff Vaccine 10-4-21

Important Update: Vaccine Mandate Now Effective October 4

Chancellor Meisha Porter

Mon 9/27/2021 8:59 PM



Viva Insights

Dear Colleagues,

Thank you again for all the work you do to support schools.

I am writing to share an update on the staff vaccine mandate. This evening, the Second Circuit dissolved the temporary injunction placed on the vaccine mandate. A hearing was originally scheduled for this Wednesday, but the court made the decision to rule on the mandate today.

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Thank you again for you again for all you do in service of our students.

In partnership,
Meisha

Meisha Porter

Chancellor, New York City Public Schools

She/her/hers

New York City Department of Education

52 Chambers Street | New York, NY 10007



Implementation of Staff Vaccine 10-4-21

Important Update: Vaccine Mandate Now Effective October 4

Chancellor Meisha Porter

Mon 9/27/2021 8:59 PM



Viva Insights

Dear Colleagues,

Thank you again for all the work you do to support schools.

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- You will be removed from payroll beginning Monday, October 4 if you are not vaccinated by end of day Friday, October 1.

If you have any questions, please reach out to your supervisor.

Thank you again for you again for all you do in service of our students.

In partnership,
Meisha

Meisha Porter

Chancellor, New York City Public Schools

She/her/hers

New York City Department of Education

52 Chambers Street | New York, NY 10007



schools.nyc.gov

Another email received from NYC DOE - Deadline to upload Vaccine or be placed on LWOP

DOE Vaccination Portal

N

NYCDOE <noreply@schools.nyc.gov>

Tue 9/28/2021 4:12 PM



To:

- Coombs Sara



Dear Colleague,

You are receiving this email because our records indicate that you have not yet used the **DOE Vaccination Portal** to submit proof that you have received at least one dose of a COVID-19 vaccine, as required by the DOE's [COVID-19 Vaccine Mandate](#). **The deadline to upload this information is 11:59pm on Friday, October 1.**

If you fail to meet this deadline, you will be removed from payroll and placed on Leave Without Pay status (LWOP) beginning Monday, October 4, unless you are on an approved vaccine exemption or leave, you will not receive compensation. **Additionally you may not use annual leave, CAR or sick time in lieu of Leave Without Pay.**

In order to avoid being placed on LWOP status, you must use the DOE Vaccination Portal to upload your proof of vaccination no later than October 4.

If you have an approved vaccine exemption, or an approved leave your status will be updated shortly. Employees in certain titles including substitutes will be placed in another inactive status, not a leave without pay.

For more information about where to get vaccinated, visit vaccinefinder.nyc.gov or call 877-VAX-4-NYC.

For the latest COVID-19 staffing updates, please [visit the Coronavirus Staff Update InfoHub page](#).

If you encounter technical issues using the Vaccination Portal, please contact the DOE Help Desk by [opening a ticket](#) online or calling 718-935-5100.

Sincerely,

DOE Vaccination Portal Team

Another email received from NYC DOE - Deadline to upload Vaccine or be placed on LWOP

DOE Vaccination Portal

N

NYCDOE <noreply@schools.nyc.gov>

Tue 9/28/2021 4:12 PM



To:

- Coombs Sara



Dear Colleague,

You are receiving this email because our records indicate that you have not yet used the **DOE Vaccination Portal** to submit proof that you have received at least one dose of a COVID-19 vaccine, as required by the DOE's [COVID-19 Vaccine Mandate](#). **The deadline to upload this information is 11:59pm on Friday, October 1.**

If you fail to meet this deadline, you will be removed from payroll and placed on Leave Without Pay status (LWOP) beginning Monday, October 4, unless you are on an approved vaccine exemption or leave, you will not receive compensation. **Additionally you may not use annual leave, CAR or sick time in lieu of Leave Without Pay.**

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If you have an approved vaccine exemption, or an approved leave your status will be updated shortly. Employees in certain titles including substitutes will be placed in another inactive status, not a leave without pay.

For more information about where to get vaccinated, visit vaccinefinder.nyc.gov or call 877-VAX-4-NYC.

For the latest COVID-19 staffing updates, please [visit the Coronavirus Staff Update InfoHub page](#).

If you encounter technical issues using the Vaccination Portal, please contact the DOE Help Desk by [opening a ticket](#) online or calling 718-935-5100.

Sincerely,

DOE Vaccination Portal Team

Email received from Principal Ricci to vaccinate by 10-1-21 11:59pm or be placed on LWOP

Vaccination Mandate

RA

Ricci Alixandre

Fri 10/1/2021 1:28 PM



To:

- Ricci Alixandre

Cc:

- Bentsen Patrick;
- Rivera Caroline;
- Rubel Randi

Good Afternoon,

Please note that as of today, **FRIDAY OCTOBER 1st**, you are listed as non-compliant on the **DOE Vaccination portal**.

As of **Monday October 4th** all DOE Employees must be vaccinated.

Below is the guidance directly from the DOE info hub:

- Unvaccinated staff, who do not have an approved exemption or leave, **will be removed from payroll beginning Monday, October 4 if they are not vaccinated by end of day Friday, October 1.**
-
- Unvaccinated staff must submit proof of vaccination by 11:59pm on Friday, October 1 in the [DOE Vaccination Portal](#)

***If you will not be returning Monday please make sure you return any CMSP device you have to Mr. Yan.**

***Please also return your room keys and elevator key to Ms. Gonzalez in the main office.**

***You should take all of your personal belongings with you when you leave today, Friday 10/1.**

Thank You,

Alix Ricci, Principal
CMSP 327
1501 Jerome Avenue
Bronx, New York 10452
718.294.8111
aricci2@schools.nyc.gov

Email from Division Of Human Resources

Your Appeal to the Citywide Panel - Additional Information

D

Division of Human Resources

Fri 1/7/2022 7:06 PM

Colleague,

Your appeal of your religious exemption to the COVID-19 vaccine mandate has been submitted to the Citywide Appeal Panel. To assist the Citywide Appeal Panel in reviewing your religious exemption request, please provide the following additional information by Friday, January 14, 2022 at 8:00 pm:

1. Whether you have previously taken any vaccinations.
2. If you have stated that you have a personal religious aversion to foreign or other impermissible substances entering your body, please describe this with more clarity, including describing any other commonly used medicines, food/drink and other substances you consider foreign/impermissible or that violate your religious belief.
3. If you have stated that you cannot take the vaccine because of an objection to using derivative fetal cells in the development of a vaccine, please provide more information about your stated objection and whether there are other medications or vaccinations that you do not take because of this objection.
4. Any additional occasions you have acted in accordance with the cited belief outside the context of a COVID-19 vaccination, to the extent not previously described in the documentation already submitted.

To submit this information, please follow the steps below:

- Written responses should be sent in as an attached document to PanelAppealUpdate@schools.nyc.gov (*Do not send, copy, or reply to this email.*)
- Written responses must be received by email by Friday, January 14, 2022 at 8:00 pm
- Only attach new information/document - do not resend documentation that was already provided.
- Include your Name and Employee ID number in the subject line of your email.

If additional information is not provided, the Panel will consider your appeal based on the materials/information you already submitted through SOLAS.







Thank you,

NYCDOE Division of Human Resources

EXHIBIT O Reply all   Delete  Junk  Block ...

Reasonable Accommodation Appeal Determination

 You forwarded this message on Sun 2/6/2022 10:48 AM

N NYC Employee Va       ...
noreply@salesforce.com on behalf of <vaxappeal@dcas.
Wed 2/2/2022 5:07 PM
To: Coombs Sara

The City of New York Reasonable Accommodation Appeals Panel has carefully reviewed your Agency's determination, all of the documentation submitted to the agency and the additional information you submitted in connection with the appeal. Based on this review, the Appeals Panel has decided to deny your appeal. This determination represents the final decision with respect to your reasonable accommodation request.

The decision classification for your appeal is as follows: Employer undue hardship

Pursuant to the City of New York's policy concerning the vaccine mandate, you now have **three business days** from the date of this notice to submit proof of vaccination. If you do not do so, you will be placed on a leave without pay (LWOP).

[Reply](#) | [Forward](#)

 Reply all
  Delete
  Junk
  Block
 ...

Fwd: Next Steps Regarding Your Denial from the Citywide Appeal Panel

CS

Coombs Sara

Sat 2/5/2022 7:28 PM

To: Sara Coombs <mscoombs3271@gmail.com>









Get [Outlook for Android](#)

From: Division of Human Resources <DHR@schools.nyc.gov>

Sent: Thursday, February 3, 2022 7:06:15 PM

Subject: Next Steps Regarding Your Denial from the Citywide Appeal Panel

Colleague,

We have been advised that the City of New York Reasonable Accommodation Appeals Panel has denied your appeal. Please note that the timeline for submitting proof of vaccination in the notice you received from the appeals panel was auto-generated and not applicable to NYCDOE employees. Relevant instructions and options following the determination of your appeal are further explained below.

If you selected to separate by October 29, 2021, or selected to extend your Leave Without Pay (LWOP) by November 30, 2021, no further action is required.

If you remain non-compliant with the New York City Health Commissioner's Order requiring vaccination of all NYCDOE staff, have not already opted to separate or extend your LWOP, and do not opt by February 10, 2022 to extend your LWOP or return from LWOP status, you are subject to termination from service with the NYCDOE.

If you would like to extend your LWOP status, you may do so by logging into [SOLAS](#) and stating your intention **by no later than February 10, 2022**. Employees choosing this option:

- Will remain eligible for health insurance through September 5, 2022.
- May seek to return from this leave prior to September 6, 2022 by following the steps below on returning from LWOP status. Employees who have not returned by September 6, 2022 shall be deemed to have voluntarily resigned.
- Must waive their rights to challenge such resignation, including, but not limited to, through a contractual or statutory disciplinary process

If you would like to return to work from LWOP status, you must complete two steps using the [DOE Vaccination Portal](#) **by no later than February 10, 2022**:

1. Upload proof that you have received your first dose of a COVID-19 vaccine. Proof of COVID-19 vaccine can be an image of your vaccination card, NYS Excelsior Pass, or another government record.

**AFFIDAVIT
S. BROWNE**

STATE OF NEW JERSEY)
) ss.
COUNTY OF UNION)

EXHIBIT #7

S. BROWNE, being first duly sworn on oath, deposes and declares as follows:

1. I am above the age of 18, and I am competent to make this affidavit.
2. I am on an involuntary leave of absence without pay from the New York City Department of Education as a Students with Disabilities Teacher for a 12:1:1 Class, for Public School 18R, JOHN GREENLEAF WHITTIER SCHOOL, located at 221 Broadway, Staten Island, NY 10310.
3. I currently hold a Master of Science Degree in General Education/Special Education.
4. I am a licensed certified New York State General Education & Students with Disabilities teacher (birth through 2 and Grades 1 - 6). I am also a tenured teacher for Grades 1-6 General Education license and for Grades birth - 2 Students with Disabilities license. \
5. I'm responsible for planning lessons and instructing 1st, 2nd, and 3rd Grade students using various curriculums. I'm responsible for advocating for students, developing IEPs, and attending IEP meetings on behalf of my students. I collaborate with staff during team meetings and overall staff development.
6. My official licensed teaching assignment began with the NYCDOE in August 2007. Due to FMLA concerns, I resigned in 2014 and rescinded the resignation in 2015. I've been working with the DOE since my return in September of 2015. Prior NYCDOE service includes a Paraprofessional from 1997 to 1998 and a Substitute Teacher from 2005 to 2007.
7. In the 2020-2021 school year, the NYCDOE approved a medical accommodation for me to work remote due to me meeting the eligibility criteria for being a high risk for Covid infection.
8. I taught both Gen Ed./Special Ed. students since the beginning of the pandemic from March 2020 to June 2021. (a period when schools were closed or conducting hybrid instruction). In spite of learning remotely, both groups of students proved to be very successful academically and socially.
9. On 9/13/2021, I officially received email notices about the vaccine mandate. The first email was from the NYCDOE Chancellor, Meisha Porter, dated 7/26/2021, **See Exhibit A**
10. The email noted that *"the Mayor made an important announcement about health and safety requirements for all City workers, which includes all DOE employees. Effective September 13, 2021, all DOE employees must have proof they are vaccinated for COVID-19 or, if not vaccinated, be tested for COVID-19 on a weekly basis."*

11. In all the years I've worked for the NYCDOE I have never been required to get vaccinated. Therefore, having a testing option made me feel comfortable that all NYCDOE employees, including myself, would have the option to work, maintain our religious beliefs, and livelihoods while following COVID-19 safety and health protocols.
12. From July 2021 to December 2021, I received numerous harassment emails and inquiries to submit proof of vaccination in order to maintain employment with the NYCDOE – including, PS 18 Principal Robert Rodriguez, former New York City Chancellor Meisha Porter, Division of Human Capital, and the DOE Vaccine Portal Team. **See Exhibits B - 16 pages**
13. For example, while awaiting a Court ruling regarding the City Mandates, I received an email from former Chancellor Meisha Porter on 9/26/2021 stating:

"All staff must report to work on Tuesday, September 28 and until further notice. This includes staff who are not yet vaccinated and those who applied for a vaccine exemption. Our court date is set for Wednesday, September 29. We are confident that we will be able to proceed with our vaccine mandate for all staff; our students, school communities, and colleagues deserve no less. For those who have not yet submitted their proof of vaccination, please do so as soon as possible using the DOE Vaccination Portal." **See Exhibit**
14. On 9/18/2021, NYCDOE (Division of Human Capital) email notice was sent to my DOE email advising that *"DOE staff members may now apply in SOLAS for a COVID-19 Vaccination Mandate Related Exemption or Accommodation."* **See Exhibit**
15. The UFT held a Telephone Town Hall Meeting regarding the mandate on September 2, 2021. During the meeting, members were advised that there would be an option to apply for accommodation/exemptions via SOLAS. However, the information wasn't clear about the Religious exemption application process. We were simply told to check the SOLAS site and apply when it was available.
16. The information received from the DOE and the UFT was conflicting and confusing. For instance, The UFT advised members that "clergy letters" were required to apply for a Religious Exemption. However, the NYCDOE noted that *"All applications require supporting documentation which must be submitted at the time of application"*.
17. I am Christian and I believe in the Bible and hold a strong religious belief that my body is my temple. Therefore, I seek natural healing and remedies before resorting to medical interventions. With this in mind, I applied for a Religious Exemption from the NYCDOE's Medical Mandate.
18. The SOLAS site was not open during the dates allotted for the leave applications. When the site was available it was malfunctioning and didn't allow uploads of documents when I tried to upload the documents.

19. There were freezes and the uploaded documents did not display on the confirmation screen. In addition, the application deadlines were limited and confusing. The submission deadline was less than a week and there wasn't anyone available to answer my questions.
20. At no point did the NYCDOE provide guidance or outline the specific criteria for the exemption letter. At no time did any official explain an exemption approval, denial, and appeal process.
21. I applied for the exemption and submitted a letter from my clergy via Solas on 9/16/2021 and on that same day, I received a confirmation of application from HR Connect Medical, Leaves, and Records Administration, a SOLAS-donotreply@schools.nyc.gov email. **See Exhibit** (Case#: A73618)
22. On Friday, September 17, 2021, I received a denial notice from HR Connect Medical, Leaves, and Records Administration (SOLAS-donotreply@schools.nyc.gov) was sent to my NYCDOE email address. **See Exhibit**
23. The email noted that "Your application has failed to meet the criteria for a religious based accommodation because, per the Order of the Commissioner of Health, unvaccinated employees cannot work in a school building without posing a direct threat to health and safety. Due to the configuration for the 2021 - 2022 school year, which includes no remote classwork, we cannot offer another worksite as an accommodation, as that would impose an undue hardship (i.e. more than a minimal burden) on the DOE and its operations."
24. Towards the end of the letter, the email advised "*you may appeal this denial to an independent arbitrator. If you wish to appeal, you must do so within one school day of this notice by logging into SOLAS*". That opportunity was missed because I checked my email during the limited preparatory time in the school day so, I quickly skimmed the email and saw that the Religious exemption application was denied and quickly closed out the disappointing email. I was devastated and felt powerless.
25. No one from the DOE or from my school spoke to me before or after receiving the denial notice about what accommodation I needed to continue if I were granted the exemption.
26. On 9/24/2021, I contacted the United Federation of Teachers, Assistant Secretary Director of Personnel, Payroll, and Special Projects, Mr. Mike Sill, regarding my religious exemption 9/17/2021 denial. I shared with Mr. Sill, I wasn't aware that I had one business day window to appeal until he mentioned it to me that day. Then he responded that "*Unfortunately, then, you cannot appeal.*" At this point, I felt hopeless and failed by the NYCDOE and UFT. **See Exhibit**
27. On 10/2/2021, I received notice from the NYCDOE Division of Human Capital noting that I was being placed on a Leave Without Pay (LWOP) because I was not in compliance with the DOE's COVID-19 Vaccine Mandate. I was placed on leave without pay starting October 4, 2021, and currently remain in that status with medical benefits.

28. In between the NYCDOE'S deadline of September 27, 2021, and until I was removed from service I participated in the required testing and masking protocol. I wore masks in the school building daily and submitted my weekly test results to the NYDOE. Since the Religious Exemption denial from the NYCDOE I have sent numerous correspondences to multiple NYCDOE representatives and have not received an appeal for my Religious Exemption application.
29. For example, on 10/3/2021, emails were sent to Chancellor Porter with CC: to Michael Mulgrew, Mike Sill, and my Pastor, Rev. Doctor Mark, V.C. Taylor. In my letter, I requested an appeal to the 9/17/2021 Religious Exemption denial and be provided the opportunity to continue working with my students. **See Exhibit J**
30. On 10/4/2021, I received an email from stayinghealthy@schools.nyc.gov. The email noted that *"There are no appeals for denied accommodations. We advise you to contact your union, if applicable, for guidance."* All other parties didn't respond to my letter. **See Exhibit**
31. On 10/4/2021, I emailed Doctor Cotto (PS 18 Assistant Principal) advising that I was available for work. He responded on the same date, noting *"I appreciate the reminder and thank you for your service. Although you are available to work at PS18, the DOE has communicated that unvaccinated employees are not permitted in the building."* **See Exhibit**
32. At no point of my correspondences with the numerous recipients of the NYCDOE including Employee Relations, Chancellor Porter, PS 18 Principal, Robert Rodriguez, Assistant Principal Jason Cotto, et al regarding my willingness and availability for work with the NYCDOE and a request for an appeal for my Religious Exemption to the Medical Mandate was addressed. In my letter, I requested that I continue the option of testing once a week and continue the practice of the safety protocols that I was following prior to the vaccine mandate.
33. On 10/29/2021, I sent follow up correspondences to NYCDOE representatives including Dr. Cotto (PS 18 Assistant Principal, PS 18 Principal Mr. Rodriguez, PS 18 School Secretary, Stephanie Ferretti, Division of Human Capital and Chancellor Porter, following up regarding my Oct 3, 2021 email requesting an appeal to my Religious Exemption and the right to work in my assigned class for the 2021-2022 school year. To date, I have not received a response from any NYCDOE official. **See Exhibits ..1, ..2, ..3, ..4**
34. On 11/2/2021, an email was sent to my NYCDOE email advising me that I was placed on involuntary LWOP status. The email noted: "If you would like to extend your LWOP status, you may do so by logging into SOLAS and stating your intention between November 1 - November 30. **See Exhibit**

35. On 11/5/2021, I responded to the 11/2/2021 NoReply email address, NoReply@schools.nyc.gov, Chancellor Meisha Porter, Division of Human Capital, and the Payroll Secretary Stephanie Ferretti, advising the following: **See Exhibit**

"Please note I intend to be available for full-time employment with the NYCDOE. Therefore, an LWOP status assigned to me is involuntary. You are requesting that I waive my rights in order to accept your terms by giving up my rights to take legal action against the NYCDOE for me to remain on involuntary leave without pay. Your request is unfair and unjust. Therefore, I reserve all of my rights."

36. On 11/29/2021, I received a final notice letter of termination advising me that if I didn't select an option suggested by the NYCDOE (including waiving my rights) I will be terminated as of December 1, 2021. **See Exhibit**
37. On 11/30/2021, I responded to the 11/29/2021 final notice email I addressed the email to Chancellor Porter and multiple representatives of the NYCDOE and UFT. I requested a follow-up to my previous inquiries for an appeal to the 9/17/2021 Religious Exemption denial and the right to be an active employee according to my contractual agreement for the 2021-2022 school year. **See Exhibit**
38. In that letter, I also inquired as to the reason why I wasn't given an appeal after the November 2021 court-ordered directives to NYCDOE provide Religious Exemption appeals to denied employees.
39. On 11/30/2021, I received a generic response to my email from UFT Member services. The generic response is as follows,

"By court order, people who were denied a religious exemption, then appealed and were denied on appeal, may now re-appeal to a city-wide panel. This opportunity applies only to people who appealed and were denied. Those who did not appeal or who never applied may not re-appeal. People may not re-appeal on a medical basis. You should have received directions on how to go about applying through SOLAS. If you apply for such an appeal, and should it be denied, your time to select the extended leave will be extended to 7 days after receipt of the decision. You must apply to the City panel by Friday, Dec 3." **See Exhibit**

40. On 11/30/2021, an email was sent to me notes, Mike Sill, UFT Representative "Unfortunately, at this time, only those individuals who timely appealed their denial of a religious exemption and who were again denied have the opportunity to reapply to the City panel. We are in discussions with the City about broadening this opportunity but we have not reached an agreement." **See Exhibit**
41. On 11/30/2021 UFT General Counsel Beth Norton UFT General Counsel, Beth Norton responded to my 11/29/2021 email to Michael Mulgrew regarding being placed on LWOP status. The email stated, "I am in receipt of your email to President Mulgrew. Unfortunately, at this time, only those individuals who timely appealed their denial of a religious exemption and who were again denied have the opportunity to reapply to the City panel. We are in discussions with the City about broadening this opportunity but we have not reached an agreement." **See Exhibit**
42. On 12/3/2021 I sent follow-up emails to numerous NYCDOE representatives requesting responses to my previous email inquiries and concerns regarding my LWOP status. **See Exhibit**
43. On 12/10/2021, I participated in a group grievance with a group of NYCDOE teachers. Lead Grievant: Brenda DeLisi-Flynn/Case #: Q73899 sent the grievance via email to the UFT and the parties involved in the grievance process.
44. On 12/22/2021, An email denial to Step 2 Grievance was sent to the lead grievant from UFT Mr. David Campbell. The Lead Grievant: Brenda DeLisi-Flynn issued an appeal request via email. **See Exhibit 1, 2 and 3**
45. On 12/28/2021 all NYCDOE staff were sent an email encouraging them to get tested for COVID 19 prior to returning to school on Jan 4, 2021. Yet I remain on LWOP status. **See Exhibit**
46. On 12/29/2021, I received an email from Mr. Saul Zalkin was sent to the Lead Teacher Grievant denying the Appeal. He also provided an Explanation for the Union not pursuing the vaccine unpaid leave grievance. **See Exhibit**
47. On 1/5/2022, I received an email from UFT Rep, John Kramps regarding my 11/30/2021 emails addressed to the NYCDOE et al and the UFT et al representatives requesting assistance with my appeal request and the NYCDOE's threat of Termination. **See Exhibit**
48. On 1/5/2022, I responded to the email from UFT Rep, John Kramps referring him back to 11/30/2021 and requesting that I be provided assistance with returning to work. **See Exhibit**

49. On 1/14/2022, I received an email request for an Appeal to my denial was submitted by my attorney to the New York City Department of Education Appeal Panel via email. **See Exhibit**
50. On 1/17/2022, The "PanelAppealUpdate" email account (PanelAppealUpdate@schools.nyc.gov) sent a confirmation email to my private email account regarding the receipt of the correspondence from my attorney on 1/14/2021. **See Exhibit**
51. On 1/31/2022, I received email correspondence from the Division of Human Resources which noted that I failed to comply with the New York City Health Commissioner's Order requiring vaccination of all New York City Department of Education staff. The letter also noted that "...employment with the New York City Department of Education is terminated, effective February 11, 2022. Please note that your health insurance coverage through the City will also cease upon termination." **See Exhibit**
52. On 2/2/2022, I responded to the Termination request noting that the email appears to be an error because I am a tenured teacher awaiting a court-ordered fresh citywide panel review that I'm entitled to receive, as it relates to my religious exemption request. I reminded the NYCDOE officials that I'm a tenured teacher and I didn't resign, retire or quit. I requested that my human, citizen, and due process rights be honored. **See Exhibit**
53. On 2/2/2022, "I received an email that thanked me for emailing lwopquestions@schools.nyc.gov. The message noted, "If you received the February 11th Termination Email on Monday, January 31st, and you believe you received this message in error we will follow up by February 3rd." **See Exhibit**
54. To date of this Affidavit, no one from the NYCDOE has contacted me to speak to me about if any reasonable accommodation could be provided and what are my options for accommodations. In addition, no one has contacted me from the NYCDOE regarding the February 11th Termination date. **See Exhibit**
55. To date, I have not received any notice of my rights to workplace safety mitigation controls pursuant to the Occupational Safety and Health Act. I just recently learned that OSHA has standards for employers to meet to provide a safe workplace for employees during a Pandemic that causes airborne contaminants. I have never received any type of OSHA notice of hazardous atmospheric contaminants in the school and neither have I ever been trained to identify or correct workplace hazards if they become apparent.
56. I am disappointed by the punitive actions taken against me by the NYCDOE including being forced on LWOP status and terminated. Being forced to leave my career pushed me into a blizzard of emotions: embarrassment, shame, worthlessness, self-pity, anger, anxiety, sadness, and depression. This entire experience has been traumatic, demeaning, and harassing. This process has caused me trauma and emotional distress.

57. The trauma has affected my entire state of mind and overall well-being. I rely so much on my job for emotional and financial security, stability, identity, provision, future plans, the roof over my head, food, and overall livelihood.
58. The numerous coercive letters I have been receiving about submitting proof of vaccination or threatening termination if I don't comply with the mandate, causes me to be afraid of opening my emails. I get anxious every time I log in to the email system because I am tormented about finding a letter terminating me from the career that I love.
59. During the Month of September 2021, I had to call my friends and family members to talk me through going to the school building because every time I got closer to my work site I would get anxious about possibly being told I can't enter the building because I'm not vaccinated.
60. In spite of all of the mistreatment in September 2021, I still remained committed to my students and I kept purchasing supplies for my classroom with my own funds and working way past my contractual hours to set up the classroom for my students because I wanted it to be a welcoming environment for them. It was very heartbreaking for me to pack up and leave those children that I had already bonded with for almost a month. The paraprofessionals and I established routines that we developed as a class. We even created a class contract that we all signed and lived by daily. It was devastating when I had to leave them behind and when I received the involuntary LWOP letter from the NYCDOE instructing me to refrain from contacting my students, causing even more pain.
61. I was interviewed twice in September by the Principal and Assistant Principal about if I was going to comply with the medical mandate before the September 27, 2021 deadline because they needed to make plans to replace me in the classroom. I'm a committed educator and being asked about what my medical intentions were on two separate occasions by the Principal and the Assistant Principal caused me to feel violated and intimidated by my supervisors.
62. In addition, being a transfer teacher at a new school caused me to be afraid of being ostracized by my new administrators and colleagues because I wasn't vaccinated and the mandate insisted that everyone be vaccinated no matter their religious beliefs. It was as if I were deemed unworthy and unhealthy for holding on to my religious beliefs.
63. These coercive and derogatory actions created daily panic and anxiety for me while reporting to work. A week before I was removed from the classroom I was told by the Principal that I was being removed from my work assignment because I'm not vaccinated and not safe to be around staff and students. This made me feel like the scum of the earth. I remember crying when I sent a reminder email to the Principal and Assistant Principal that I was available for work. The fact that the Principal didn't even respond and the Assistant Principal responded that unvaccinated staff members are not allowed in the

building made me feel like I committed a crime because I hold on to my sincerely held religious beliefs.

64. Since the month of September 2021, almost every day I wake up I have been having crying spells and anxiety about whether or not I would ever be able to work with my students and lose my career for standing up for my sincerely held religious beliefs. I have lost my appetite, lost weight, isolated myself from friends and family because I feel worthless and discarded by the NYCDOE, and society in general. Often I pray to God for relief from the severe discrimination that placed me in this challenging emotional, spiritual, and financial bondage. Some days, I consult/counsel with my pastor, family, and friends so that they can pray with me throughout this experience. I also participate in restorative talking circles that are currently experiencing the challenges of being placed on involuntary LWOP status.
65. I keep asking why is this happening to me and when will the daily nightmares end? When will I be able to have a good night's sleep without waking up with night sweats because of bad dreams about being chased out of my classroom by my administrators and colleagues, losing my home to foreclosure, being held down for a vaccine, and other tormenting nightmares.
66. I just don't understand how I moved from being labeled a hero to a villain of the pandemic. Last year teachers were appointed as essential workers and were required to work throughout the pandemic. We even worked through our scheduled Winter Recess. Even when I was feeling overwhelmed during the pandemic I showed up for my students daily, knowing that they needed to have consistent and dependable support during a time of uncertainty and social-emotional challenges. I reported to work and stayed online way past my required NYCDOE screen time because I care about my students.
67. I went above and beyond the call of duty by figuring out how I could reach and teach students outside of the traditional walls of a school building. I was inexperienced with remote instruction but I didn't let that stop me from being innovative, purchasing equipment, and software that assisted me with successfully instructing my students remotely.
68. Prior to this tumultuous experience of my employment security and income source being abruptly taken away, I was current on my expenses, making repairs to my home, taking vacations, saving money for the future, investing, supplementing my parents' income, and donating to family, friends, and charity.
69. Prior to being placed on LWOP, my food security wasn't in jeopardy and I was able to have nutritious meals. Now, I often do not have enough to eat and depend on food donations from friends/family and credit cards. This has significantly impacted my nutrition and health.
70. The involuntary LWOP status catapulted my livelihood into a nightmare and every month since my removal from payroll in October 2021 has been heartbreaking and a financial burden. To think about how much I committed to ensuring that I have excellent payment/credit history with my bills/creditors and now it's in jeopardy of being destroyed due to loss of income from being removed from the payroll.

71. Being on involuntary LWOP has created a financial disaster for my family. I have been living off of my credit cards and depleted my savings. I've been borrowing funds from family and friends to supplement my expenses. In addition, there is household maintenance and repair work that I currently need to get done on my house but I have been forced to forego repairs due to the inability to pay my contractors.
72. I have multiple insurance policies that I make payments to monthly. Due to LWOP status, I'm in jeopardy of those policies lapsing due to non-payment.
73. I am unable to keep up with my utility expenses due to a lack of income. I recently applied for utility assistance with the State of New Jersey and I'm awaiting the decision on my case.
74. In April of 2021, I refinanced my home for a reduced interest rate and mortgage payment. For the first time since I originally purchased my home in 2009, I felt financially secure enough to think about investing in real estate. I was even able to help my daughter with college and pay my credit card balances in full most months.
75. Now, I'm in jeopardy of losing my home due to possible foreclosure on my home. I recently applied for forbearance and I'm currently awaiting a decision about it being approved for temporary relief. Filling out all of that paperwork took hours, was overwhelming, and demoralizing.
76. Disclosing that I wasn't able to pay for my mortgage to the mortgage holder made me feel vulnerable, embarrassed, and despair, because the forbearance application approval isn't guaranteed. I'm placing my life in the hands of a person behind a website that doesn't even know the anguish I'm experiencing. The financial instability and emotional distress that I've been facing since the medical mandate and being placed on involuntary leave without pay is gut-wrenching. The thought of being homeless, without a means of income, and financial instability causes me to panic, gives me anxiety, and puts me in a depressed state.
77. I have never been delinquent on my mortgage payments or any of my current debt. I was even able to make an extra \$200 or more monthly to my mortgage and other debt accounts. Falling behind on my payments for my credit cards and other debt will jeopardize my credit history and prevent me from acquiring loans or credit accounts in the future.
78. Involuntary LWOP has prevented me from enrolling in an Applied Behavior Analysis Master of Science Program at Touro College because I'm unable to pay for the coursework.
79. Being on involuntary LWOP status has prevented me from applying for Federal Loan forgiveness programs because it requires confirmation of my active employment status with the NYCDOE and I am currently on LWOP. Involuntary LWOP will also put me in default for my student loans when the federal-issued forbearance expires in May 2022.

80. While being on involuntary LWOP status, I have had to postpone medical care due to my inability to pay the deductibles/out-of-pocket costs for my medical expenses. Now that I am scheduled for termination on February 11, 2022, I will certainly be unable to afford the associated medical costs. I am concerned about how postponing these services will affect my health in the short/long term.
81. I am currently unable to buy back years of service from TRS as I am on a Leave Without Pay and not eligible to make payments deducted from my paycheck and no longer have the funds to pay the cost to buy back my years of service from the TRS because my savings were used to cover my expenses due to loss of income.
82. During involuntary LWOP status, I have not been earning pensionable time and employer matching funds to my TRS account. In addition, the TRS funds are attached to the stock market, and the funds/accumulated interest hasn't been credited to my account due to contributions not being made on my behalf during this involuntary LWOP period. This will also affect my pension payout amount and retirement date.
83. During involuntary LWOP status, I'm not accruing CAR/SICK days since being placed on leave on 10/4/2021. In addition, the recent Spring 2021 vacation compensation award from the NYCDOE/UFT arbitration agreement was not added to my Vacation bank.
84. I did not receive the "Teachers Choice" credit for purchasing supplies provided to teachers in November 2021. I have not received the staff development and training that other staff members have received/attended during the time I've been on LWOP status.
85. I have missed per session teaching opportunities to work overtime. For example, there are at least three per session programs at PS18 (before/after school, and Saturday Academy) that I missed out on because I'm on LWOP. In addition, I would receive compensation to assist students outside of normal business hours when my class was shut down due to covid in December 2021. These programs are anticipated to continue through June 2022.
86. Being unable to meet my personal expenses and obligations has created a flight or fight feeling inside of me. I'm feeling degraded, desolate, and abandoned by my employer.
87. The NYCDOE's directive of not being allowed to work during the involuntary leave has also created hardship for me. The fact that I am still reported as employed with the NYCDOE has caused me to be ineligible for public resources such as Public Assistance and Unemployment benefits. During an information session on October 6, 2021, with Michael Sill of the UFT, LWOP employees were told that we were not eligible to work and to receive unemployment because we're still considered employed with the NYCDOE. That places me in a hardship position because I'm forbidden from working and haven't been receiving a paycheck or unemployment.

88. Not having the resources and finances I need to survive may cause me to have to move out of the town of Roselle, NJ to seek alternative employment options if the NYCDOE is not enjoined from continuing to deprive me of reasonable accommodation. I have been applying for multiple teacher licenses in reciprocity states and it is very costly to do so. This has added to my financial hardship because I used my credit cards to pay for the applications. In addition, the teacher compensation packages currently offered in states like NJ and many other states aren't comparable with my current salary with the NYCDOE.

89. Being a tenured teacher with over 14 years of service has placed me in an employment compensation tier that will require me to take a pay cut in NJ and other states. Taking a pay cut will cause me to go below the budget I need to sustain my current expenses. In addition, I would be required to start over as a non-tenured teacher. The teacher employment certification criteria are different in every state and would require me to pay certification fees and take exams or professional development/training courses in different states to apply for a teaching position in the middle of the year.

90. Due to being placed on involuntary LWOP status, I am unable to assist my daughter to pay for college as I did before. In addition, I am my parents' caretaker and responsible for assisting my parents financially. Since the being on LWOP, I have reduced my visits to NYC because of the burden of paying for gas and the tolls and I am unable to assist them with their living expenses as I did prior to losing my income in October.

91. Due to being placed on involuntary LWOP status, I was unable to attend my grandmother's final resting service in St. Vincent. I couldn't attend the in-person burial because I was distracted by the uncertainty of whether or not I will still be employed by the NYCDOE. With this in mind, I refrained from the expense of attending the funeral. In addition, I could not embark on a vacation with my family in December 2021 due to the inability to cover the vacation expenses. I was looking forward to visiting my grandmother's grave and being with my friends and family in St. Vincent and the Grenadines for the Christmas holiday. Missing these important events took an emotional toll on me and my family.

92. Since the discriminatory practices against me by the NYCDOE, I've used a lot of resources and time to deal with the matter. My efforts related to my involuntary LWOP status have been like having a full-time job. I've spent a lot of valuable time back and forth researching, communicating with the DOE, attorneys, advocates, and similar agencies, regarding being removed from involuntary leave without pay.

93. The NYCDOE should be enjoined from denying the reasonable accommodation of testing and masking or allowing employees like me to work remotely.

94. I would like all of the lost income, benefits, and personal resources to be restored to me by the NYCDOE. I want the Department of Education to stand by its theme of "equity and excellence for all" and for them to remember the message they sent out to us in their June

24, 2021 correspondence to us. It noted "you continue to support and educate NYC's children during this unprecedented time. We recognize that the COVID-19 public health emergency has presented numerous challenges. You have met those challenges with dedication and flexibility, and we want to make sure you have every tool you need to keep you and your communities safe." The tool I need is to be able to uphold my religious beliefs and still keep my career.

95. As an employee of the NYCDOE, I want to keep the students, colleagues, and myself safe. I am requesting the option to teach online. My hope is to be able to take care of my family and handle my work-related responsibilities and duties, as I did prior to being placed on involuntary LWOP status. I am asking for restitution in all areas of my life that have been adversely affected by being placed on involuntary leave without pay.

96. I have also filed an federal EEOC complaint and they are going to send me a right to sue confirmation. But they know I have a lawyer who is suing for me.

I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct.

Dated this 14th day of April 2022.

Sandra Browne
S. BROWNE

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

Subscribed and sworn to (or affirmed) before me on this 14 day of April, 2022, by S. BROWNE, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Witness my hand and official seal.

Anderson

Signature of Notary Public

[Affix Notary Seal]

PAULA. ANDERSON
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Nov. 28, 2023

Anderson
4/14/2022



EXHIBIT #8

AFFIDAVIT OF
A. BRYAN

STATE OF NEW JERSEY)
)
COUNTY OF ESSEX)

SS

A. BRYAN, being first duly sworn on oath, deposes and declares as follows:

1. I am above the age of 18 and am competent to make this affidavit.
2. I have been a New York City Department of Education (DOE) employee for approximately 15 years, since being hired in 2007.
3. As a tenured DOE teacher with effective ratings throughout my teaching career, I worked in various capacities with my dual teaching licenses in General and Special Education in New York City K-12 schools and I have never been required to submit any vaccine as a teacher.
4. For the school years 2019 to 2020 and 2020 to 2021, as per Mayor Bill de Blasio, I effectively taught my General and Special Education students remotely. Throughout these school years, my administrators recognized me as a trailblazer and Teacher Lead in providing students' academic and behavioral success with remote virtual learning.
5. On 8/9/21 via the offer letter attached as **Exhibit A**, I was assigned by the DOE to serve as a "Remote" Special Education teacher for District 97M501. The assignment did NOT require me to perform "in-person" face to face teaching to

any special education students and I was NOT assigned to work in any DOE building.

6. See **Exhibit B**-Letter from my Assistant Principal-dated 10/18/21, confirming that I am a REMOTE teacher providing special education through virtual teaching technology and that I am not located in a DOE building or school setting.
7. On 8/24/21, Dave A. Chokshi, Commissioner of the NY Health and Mental Hygiene and the DOE entered an Order mandating that all DOE staff, City employees, and contractors who "work in-person in a DOE school setting or DOE building" and all employees of any school located in a DOE building working in person shall provide proof of vaccination by 9/27/21 (See **Exhibit C**, the "Order").
8. Despite my "REMOTE" work status, sometime around 9/9/21, I received an email from the DOE's Self-Service Online Leave Application System ("SOLAS"), informing me that I had to provide proof of vaccination by 9/27/21 or seek an exemption.
9. Because I was aware that the NY Health and Mental Hygiene Order did NOT apply to me, I contacted an administrator at DOE asking if I still needed to comply with the ORDER since I was a REMOTE teacher with no "in-person"

teaching in a DOE building. I was told that I still needed to comply with the requirement to either show proof of vaccination or seek an exemption from SOLAS.

10. On September 12, 2021, I submitted my religious exemption application on the SOLAS online portal with a letter from my pastor in support of my religious exemption request. I also selected the option that asked "do you work in a DOE building" and I selected "No".

11. On 9/17/21, my request for a religious exemption and accommodation was denied via email from SOLAS stating as follows:

"Due to the configuration for the 2021-2022 school year, which includes no remote class work, we cannot offer another worksite as an accommodation, as that would impose an undue hardship on the DOE and its operations". (See Exemption Denial from SOLAS Exhibit D)

12. I was confused and shocked by the DOE's decision because I am a remote teacher working in an isolated, non-school building workspace, and I do not interact with students or staff as stated above. I was unable to reply to the email from DOE's SOLAS portal to inform them of their erroneous assumption that I provide in-person instruction in a school building.

13. On 9/20/21, I sent an email to United Federation of Teachers Union President Michael Mulgrew informing him of the wrongful denial because I was already a "Remote" teacher not subject to the Ordered mandate. Michael Sill, the United

Federation of Teachers ("UFT") Director of Personnel, responded to my email.

He stated that he would reach out to DOE about my situation of having the working conditions that will be given to exempted and accommodated individuals. Mr. Sill also advised me to appeal with mention of my current working conditions as a remote worker in a non-school building. (See Email from Mr. Sill as **Exhibit E**)

14. I was only given one (1) day to file an appeal which I did on 9/23/21, which I was directed to submit to the Scheinman Arbitration & Mediation Services.
15. On 9/24/21, I participated in the Arbitration hearing. I informed the Arbitrator that I was already a REMOTE worker not working in a DOE school building and that the Order should not apply to me. I also stressed that I follow the Bible health laws that prohibits me from taking anything that would alter my natural immune system. I shared that I follow all THE TEN LAWS of the Bible for health and that my religious medical practice protected me from all diseases and that I did not want to disobey God's health laws.
16. At the hearing, a DOE representative inquired about my affiliation with the Seventh Day Adventist Church and stated that the Seventh Day Adventist Church does not oppose the vaccine. I explained that it is my personal sincere religious belief in God's laws and the requirements of the Bible that I should

not take the vaccine, regardless of my affiliation with the Seventh Day Adventist Church. I repeated what I said at my opening statement given at the arbitration. The Supreme Court in the case *Welsh v. United States* 398 US 333 (1970) stated that a person's sincerely held belief does not have to be consistent with the beliefs of any religious organization.

17. Also, during the hearing, the UFT Representative Matt Kirwan confirmed my "remote work status" and acknowledged that Michael Sill from the UFT said he would speak with the DOE on my behalf about how I do not engage in in-person instruction and that my working conditions are the same as exempted and accommodated teachers.
18. On 10/3/21, I received via email the attached decision from the Arbitrator denying my request for an exemption despite all the evidence regarding my REMOTE work status and my sincere religious beliefs. The date on the letter was 9/25/21. (See **Exhibit F** regarding Arbitration Denial letter)
19. I later found out that the Arbitrator had entered an agreement between the DOE and our teachers' union the UFT stating that it would ONLY grant religious exemptions to members of the Christian Science faith and the Nation of Islam. (See Arbitration Award attached as **Exhibit G**)

20. On 10/4/21, I reached out to Mr. Sill and Mr. Kirwan explaining that I had not heard from them regarding their promised advocacy on my behalf.
21. Mr. Sill responded to my above line #20 via email in a dismissive way, stating that he was sorry that my appeal did not turn out the way I had hoped but that he could no longer help me and that my only recourse was the courts or vaccination.
22. On 10/5/21, I received an email from SOLAS stating that because the arbitrator denied my exemption that I was placed on a forced "Leave of Absence" without pay. There was no explanation about why I was denied. (See **Exhibit H**)
23. On 10/6/21, I submitted a new application to SOLAS explaining that I do not provide in-person instruction within a school building.
24. On 10/7/21, I received another email with SOLAS stating that my "Repeated Application previously reviewed and determined." The email did not address the fact that my original denial was based on incorrect information. (See **Exhibit I**)
25. On 10/18/21, as stated above, my Assistant Principal couldn't understand why I am not able to resume teaching remotely. He provided me with the attached letter, confirming my remote work status in a non-DOE building; not "pos[ing] a risk to the health and safety of the children because she does not work from

a school building. There is no discernible reason Miss Bryan would need to be vaccinated to perform her duties.." (See **Exhibit B**)

26. On 11/24/21, I emailed my Union (United Federation of Teachers) Chapter Leader Emmanuel Duruaku to file a grievance on the following: (See **Exhibit J**: Requesting Chapter Leader)

The grounds on which this grievance is based: I have been placed on unpaid leave/ unpaid suspension unjustly by the DOE pursuant to its vaccination mandate under the Order that did not apply to me as a remote worker in a non-school building; with my sincerely held religious belief submitted for religious exemption. Also, I have been marked as unauthorized absence unjustly by the DOE.

Contractual article and section alleged to be violated: Article 21 Section E. Also, being marked as unauthorized absence is not an article defined in the contract.

Specific remedy sought: I seek that the DOE places me on paid leave/ paid suspension pending hearing or alternatively reinstatement me to my paid remote position in a non-school building and provide back pay for my current forced leave without pay status. Also, I seek that the DOE removes the "unauthorized absence" mark on my record.

27. On 12/3/21, UFT Grievance Specialist Parniece Richardson assisted me with my Grievance form and submitted it to my principal for a Step 1 grievance meeting. Ms. Richardson along with UFT representative Michael Santos informed me that Step 1 of the grievance process is on the school level. They informed me of the following: (1) the principal does not have the authority to reinstate me to my remote Home Instruction position nor remove unauthorized absences; (2) Step 1 is procedural and you will be denied by the principal; (3) however, this Step 1 is necessary in order to move onto Step 2 in which they would advocate for me when moving forward to Step 2. (See **Exhibit K**)
28. On 12/3/21, pursuant to the Kane v. De Blasio and Keil v. NYC court orders, I was given the opportunity to re-appeal for a religious exemption to the Citywide Panel. I submitted my re-appeal on this day through DOE's SOLAS. (See **Exhibit L**)
29. On 12/8/21, I had my Step 1 meeting with principal Ramona Pizarro. She said that she wished that she could reinstate me and remove the unauthorized absences from my attendance but it is beyond her control and that I would have to move on to Step 2. After the meeting, I emailed Ms. Richardson and Mr. Santos providing details from the meeting and requesting for next steps to move on to Step 2 as they said would happen. (See refer back to **Exhibit K**)
30. Again, my request for the right to continue to work "remote" as my accommodation was still denied and I received the attached denial letter from my principal. (See **Exhibit M**)
31. At 3:20pm on 12/17/21, I received an auto-generated email from the director of the UFT Grievance/Arbitration Department David Campbell stating

"Following the review of your Step 1 grievance, the UFT Grievance Committee has concluded that your case cannot be successfully pursued to Step 2 of the grievance process. Should you wish to appeal this decision, please email Saul Zalkin, szalkin@uft.org, within 10 days of receipt of this letter." This email did not provide reasons as to why I was denied my grievance from moving to Step 2. (See as **Exhibit N**)

32. However, at 3:50pm on 12/17/21, I received a conflicting email from Ms. Richardson stating, "We reviewed your case on Monday, 12/13/21. You will receive an email with the decision and next steps." (See **Exhibit O** email correspondence with Parniece Richardson.)
33. On 12/28/21, UFT grievance representative Saul Zalkin emailed me regarding appealing the grievance denial with advisement to call him. Within his email, he attached an explanation why my grievance was denied from moving to Step 2. (See **Exhibit Pa.** Mr. Zalkin's email and **Exhibit Pb** his explanation)
34. Despite NYCDOE utter failure to acknowledge my remote work status, on 1/7/22, I received an email from NYCDOE Division of Human Resources stating that "Your appeal of your religious exemption to the COVID-19 vaccine mandate has been submitted to the Citywide Appeal Panel" requesting more information from me about my religious beliefs that needed to be submitted by Friday, January 14, 2022 at 8:00 pm. Again, as usual I was given a short amount of time to respond when I had already provided no less than four times information about my religious beliefs.(See **Exhibit Qa** and **Exhibit Qb** for Q&A)

35. However, I received another conflicting notice on 1/10/22 from David Campbell stating that "Your appeal to the Grievance Department's decision not to proceed to Step 2, regarding the case noted above, has been carefully reviewed by this Department" and that I needed to once again file another appeal to receive the right to work remote when I was already granted the remote position and once again I was only given ten (10) days notice to respond.
36. As of 1/7/22, I am still awaiting the decision from the Citywide Appeal Panel regarding my Religious Exemption reappeal.
37. Because of this entire corrupt process of demanding me to prove my religious beliefs and the NYCDOE refusal to acknowledge that they hired me to work in "Remote Education", I have been stressed to the point of emotional breakdown. I cry everyday having to deal with being labeled a fake and a trouble maker in my workplace.
38. I am suffering from anxiety manifesting in lack of sleep, teeth grinding and shoulder pain from the stress of going back and forth with the NYCDOE for the last five months while they have completely ignored my remote status.
39. I am also angered by the fact that NYCDOE has placed me on leave without pay to punish me for not taking the vaccine.
40. All of these unnecessary demands on me to provide information over and over again has caused me to relive the pain of being put on leave without pay and to suffer the financial hardship of losing pay.
41. At no time has anyone from NYCDOE ever called me and met with me to learn about my remote work status so that they would know that my job did not need to be accommodated and did not need to go through this horrible 5-month process of seeking an accommodation when I did not need one. NYCDOE has refused to communicate with me and has forced all communication to go through an internet portal called SOLAS.

42. I am about to lose my house and my career that I have worked so hard to achieve all because the NYCDOE failed to just meet with me to learn the truth about my remote work status.

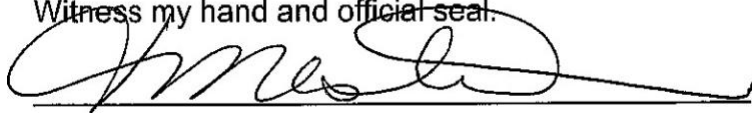
I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct.

Dated this 4 day of February, 2022.
A. Bryan

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

Subscribed and sworn to (or affirmed) before me on this 4 day of Feb, 2022 by the person who has signed as A. Bryan, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Witness my hand and official seal.

 [Affix Notary Seal]

Signature of Notary Public

VIRGINIA MESTRE
NOTARY PUBLIC
STATE OF NEW JERSEY
MY COMMISSION EXPIRES FEBRUARY 24, 2024

**AFFIDAVIT
ZENA WOUADJOU**

EXHIBIT #9

[illegible]

ZENA. WOUADJOU, being first duly sworn on oath, deposes and declares as follows:

1. I am above the age of 18, and I am competent to make this affidavit.
2. I am on leave of absence without pay from the New York City Department of Education as a classroom teacher for the Harlem Renaissance High School located at 22 EAST 128TH Street, New York, NY 10035.
3. I was placed on leave without pay starting October 4, 2021.
4. I have worked for the New York Department of Education ("NYCDOE") for 22 years and I am a tenured teacher, that can only be terminated for cause pursuant to New York Education Law §3020. I hold a BA in English and an MEd in TESOL (Teaching English to Speakers of Other Languages), certifications in TESOL for grades K-12 and English Language Arts for grades 7 - 12.
5. I am a high school level classroom teacher. In that capacity I teach English as a New Language (ENL) in sheltered instruction and Integrated Co-Teach and Advanced Placement English Language & Composition. In addition to my role in the classroom, I am also the sole ENL Lead Teacher Liaison between the District ENL Support and my school, and provide support to subject area teachers, school staff and administration on curriculum, engagement, and social emotional needs of English Language Learners in my school. I am also one of three trained Restorative Justice Practitioners at the school.
6. On October 4, 2021, I was placed on Leave without pay for refusing to take the COVID-19 vaccine.
7. My job can be worked remotely. I have worked remotely in the past from March 2020 to June 2021. In March 2020, I was required to perform my job remotely as a result of the NYCDOE forced shuttering of New York City Public schools in response to the Covid-19 Pandemic. In the 2020-2021 School Year, I received medical accommodation from the NYCDOE based on meeting the eligibility criteria for being at high risk for Covid-19. During that time, I received an Effective Rating through the Advance Teacher Evaluation System.

8. In all the years I have worked for NYCDOE, the NYCDOE has never required me to get vaccinated.
9. A notice of the vaccine mandate, indicating that city employees would be required to show proof of (a) one dose of the Covid-19 vaccine or (b) negative Covid 19 test results every 7 days, was emailed to my work address during summer break on August 12, 2021. See **Exhibit A**
10. The initial notice from my employer did not mention that I had the right to receive religious exemption or accommodation.
11. On August 26, 2021, I received an email from the United Federal of Teachers (“UFT”) stating that employees had a right to request a religious exemption/medical accommodation. See **Exhibit B**
12. On September 18, 2021, I received an email from the NYCDOE Division of Human Capital stating that “staff members may now apply in SOLAS for a COVID-19 Vaccination Mandate Related Exemption or Accommodation” and that the application should be made through the SOLAS- the NYCDOE Leave Application System. See **Exhibit C**
13. The email informing me of my right to apply for religious exemption or medical accommodation, included the following instructions
 - Applications must be made using the [Self-Service Online Leave Application System \(SOLAS\)](#).
 - In SOLAS, employees should select the initial option to "Request Accommodation" and then the option to apply for an Exemption and Accommodation for COVID Vaccine-Related Reasons, and then indicate the category for the application.
 - All applications require supporting documentation which must be submitted at the time of application. The email did not include mention of a date by which I needed to apply for the exemption. Information about exemption application date came from communications from the UFT postings on the “Vaccine Mandate & Exemption” Section of FAQ page of the UFT website. Based on union website postings, the deadline for submitting a request for religious exemption was September 20,2021 @5:00pm, two days after I received notice of the opportunity to apply for the religious exemption.

14. I was not given any explicit instructions on how to make a request for a religious exemption from the vaccine before applying. Based on postings from the UFT member website, I received information that (1) *“Exemption requests are considered only for members who belong to recognized and established religious organizations and not where the objection is personal, political or philosophical in nature.”* (2) *Applications for religious exemptions must be documented in writing by clergy or a religious official.* I prepared my letter of request based on this information. I was unable to obtain a letter from “clergy” in part because of availability and also because my religion does not recognize official clergy. For that reason, I hesitated on whether I should apply, but decided to move forward to the application process anyway. Upon logging in to the SOLAS application system, I discovered that the process consisted of me uploading a letter explaining my sincerely held religious belief and/ or a letter from clergy or a religious official.
15. I was not given any instruction to specifically ask for a reasonable accommodation with the exemption request. The application system did not include any employer-created forms and the application instructions asked only for explanation of sincerely held beliefs.
16. On September 20, 2021, I submitted my request for religious exemption. I requested the religious exemption on the basis that I am a Muslim, in faith and practice who believes in the Sacred Texts of *The Holy Quran, The Bible, and Hadith (teachings from the life of Prophet Muhammad PBUH)*.
17. On September 22, 2021, I received an email from the NYCDOE address solas_donotreply@schools.nyc.gov notifying me that my request for religious exemption had been denied. (Attached is the notification as Exhibit B.) The denial of the request did not contain a reason. The letter stated that *“has failed to meet the criteria for a religious based accommodation.”* Also, the letter explained that *“Per the Order of the Commissioner of Health, unvaccinated employees cannot work in a Department of Education (DOE) building or other site with contact with DOE students, employees, or families without posing a direct threat to health and safety. We cannot offer another worksite as an accommodation as that would impose an undue hardship (i.e. more than a minimal burden) on the DOE and its operations.”*

18. Before my exemption was denied, no one from the NYCDOE or from my school spoke to me or contacted me about what accommodations I might need to continue working if my exemption were to be granted.
19. Included in the letter notifying me of the denial of my exemption request, was information regarding my right to appeal and the process by which I could submit an appeal. The letter stated *"Under the terms of the Arbitration Award, you may appeal this denial to an independent arbitrator. If you wish to appeal, you must do so within one school day of this notice by logging into SOLAS <https://dhrnycaps.nycenet.edu/SOLAS> and using the option "I would like to APPEAL". As part of the appeal, you may submit additional documentation and also provide a reason for the appeal."*
20. I did not receive any information regarding what additional information or documentation was required to apply. Additionally, the denial letter did not specify which "criteria" my exemption request failed to meet. I was given **one school day** to request an appeal through the SOLAS system.
21. September 23, 2021, I followed up by logging into the SOLAS system and submitting an appeal the next day. As a part of the process I was required to (1) type a brief explanation of my "reason for appeal" in a text box form (2) upload any additional document in support of my request, but not to upload previously submitted documents.
22. After submitting the application, I received email confirmation of my submission to my NYCDOE email. Within the body of the submission confirmation email, I was also informed that my appeal request and documents, if uploaded, would be forwarded to an independent arbitrator, Scheinman Arbitration and Mediation Services ("SAMS"), and that if I had additional documentation to submit, I could do so by forwarding the materials from my NYCDOE email to the applicable addresses provided within 48 hours.

UFT: AppealsUFT@ScheinmanNeutrals.com

CSA: AppealsCSA@ScheinmanNeutrals.com

Local 237: AppealsTeamstersLocal237@ScheinmanNeutrals.com

Local 891: AppealsLocal891IUOE@ScheinmanNeutrals.com

23. Subsequently, on September 29, 2021, I received notice from the arbitrator assigned to my appeal, Julie A. Torrey, that an Appeal Hearing had been scheduled for me for September 30, 2021 at 11:00 am via Zoom. The letter further explained that my principal was required to provide a “quiet space” and coverage for my duties during the time of the hearing.
24. After receiving notice of the hearing, I contacted my union chapter leader to inquire about the possibility of union representation at the hearing as well as advice on what to expect/ how to prepare for the appeal hearing. The union chapter reached out to our district representative, Patricia Crispino, who informed the chapter leader that someone would reach out to me via phone or email to discuss the matter.
25. I received an email from a union representative, Michael Herron, informing me that he was aware of my appeal hearing and asking if I wanted representation during the hearing. I requested a phone meeting before the hearing, however, that did not happen. I met with Mr. Herron via Zoom at the time of the hearing.
26. A colleague was assigned to cover two of my class periods, allowing me to participate in the hearing via zoom from my classroom. During the hearing, the arbitrator, Julie A. Torrey introduced herself and meeting participants; myself, the union representative (Michael Herron), and lawyer for the NYCDOE. She stated the purpose of the hearing was to review an appeal of the denial of submitted religious exemption from the Covid 19 Vaccine mandate.
27. The hearing proceeded as follows: (1) I was sworn in before I provided testimony (2) The union representative asked to be placed in a Zoom Breakout Room to introduce himself to me and clarify the case. (3) Upon return to the main room, the arbitrator asked me to verbally explain my reason for requesting an exemption. (4) I summarized my sincerely held beliefs as stated in my written exemption request. (5) The lawyer representing the NYCDOE responded to my statement by quoting Health Commissioner Choksy on the contents of the vaccine and stated that I had not submitted a letter from clergy in support of my exemption request. (6) The UFT representative requested another Breakout room be created to speak to me privately. (7) In the breakout room, the UFT representative asked me how I intended to respond to the issues/ questions raised by the NYCDOE lawyer. (8) Upon return to the Main room, the arbitrator

said that I could respond to the NYCDOE lawyer's questions. (8) I reiterated part of my statement which had been misconstrued by the NYCDOE lawyer. I also explained my religion's views on "clergy" (not recognized by my religion). (9) The arbitrator asked additional questions: *Have you ever been vaccinated? Do you take over the counter medication?* (9) After I responded to these questions, the arbitrator stated that I would be notified of a decision at a later date and ended the Zoom meeting.

17. On October 1, 2021, I received an email from the email address vaccineappeals@scheinmanneutrals.com with an attachment of the Arbitrator Award document stating that my appeal was denied. The arbitration decision was dated September 30, 2021 and signed by arbitrator Julie A. Torrey. The denial was followed by a statement "*Appellant failed to establish entitlement to a religious exemption .*" **Exhibit D**

18. On October 2, 2021, I received an email notifying me that I was placed on Leave without pay starting on October 4, 2021, due to my unvaccinated status. The Notice also provided options to either resign and waive my right to challenge the resignation, or to continue to stay on "leave without pay" through Sept. 5, 2022 and again waive my rights. This letter was coercive and intimidating in order to force me to take the vaccine. **Exhibit E**

19. On November 19, 2021, I received an email from NYCDOE Division of Human Resources with the subject line "New Appeal Option for Religious Exemption to the COVID-19 Vaccine Mandate" The notice stated that "*other City employees now have an option to appeal a religious exemption denial by their agency to a central Citywide Panel. Based on your status, you now have an opportunity to also appeal to this Citywide Panel.*" It also stated that my "request will be considered by a central Citywide Panel composed of representatives of the Commission on Human Rights, the Department of Citywide Administrative Services, and the Office of the Corporation Counsel. The determination will be made by the panel according to the standards imposed by Title VII of the Civil Rights Act of 1964, the New York State Human Rights Law, and the New York City Human Rights Law." In order to reapply for the appeal, I was required to: (1) submit the new appeal application via SOLAS. (2) Submit the appeal by Friday, 11:59pm on December 3, 2021. (3) materials already submitted did NOT

need to be resubmitted (4) documentation from a religious official is not required but you are free to submit it. Also, the letter stated that I did not need to submit documentation from clergy or religious officials, and that I would remain on Leave Without Pay until a decision was made, after which I would have 7 days from the decision to apply for a Leave Without Pay extension. Also included was a screenshot of the Step-by-step process to follow once inside the SOLAS system. **Exhibit F**

20. On December 3, 2021, I submitted my second appeal request via SOLAS. In the SOLAS system I was asked to include an explanation of reason(s) for appeal. I wrote and uploaded an additional letter, summarizing my sincerely held beliefs and why they prevent me from participating in the Covid19 Vaccination, as well as a summary of my experience during the appeals hearing during which NYCDOE representatives made statements reflecting a misunderstanding of my religion and religious beliefs as they relate to the vaccine. At the conclusion of my appeal, I also stated that "I am open to any restorative processes that can facilitate my continuing to serve the young people and families of New York City Public Schools while honoring my sincere religious beliefs and practice of my faith."

21. On January 7, 2022, I received an email from NYCDOE Division of Human Resources with the Subject Line "*Your Appeal to the Citywide Panel - Additional Information*" In this letter, I was told that my appeal to the Citywide Panel had been submitted. I was asked to submit additional information, including (1) Whether I have previously taken vaccinations (2) describe this with more clarity, describing any other commonly used medicines, food/drink and other (3) more information about my stated objection to use of derivative fetal cells in the development of a vaccine, and whether there are other medications or vaccinations that I do not take because of this objection. (4) additional occasions you have acted in accordance with the cited belief outside the context of a COVID-19 vaccination. All additional information was to be forwarded to PanelAppealUpdate@schools.nyc.gov by Friday, January 14, 2022 at 8:00 pm

Exhibit G

22. To date, I have not been contacted by anyone from the NYCDOE to speak about any reasonable accommodation that could be provided or discuss my options for accommodations
23. I have filed an EEOC Complaint and requested a right to sue.
24. On March 7, 2022, I received a notice that my appeal was denied. See **Exhibit H**
25. On March 8, 2022, I received a follow-up notice regarding my appeal denial, against informing me of my option to resign and waive my rights or get vaccinated. Again, this was harassment and intimidation to coerce me to go against my religious beliefs. See **Exhibit I**
26. On March 21, 2022, I received a final notice of termination. See **Exhibit J**
27. I have not received a Charge notifying me that I have been terminated for “cause” pursuant to NY City Education Law §3020, which is the ONLY basis for which I can be legal terminated.
28. During this entire process of seeking to continue to work unvaccinated, I was never informed about my rights under the Occupational Safety and Health Act, which I just learned of as of this affidavit. I have never been trained in Covid Safety Protocols nor have I been told that I had a right to be provided with workplace equipment that would allow me to continue to work in my unvaccinated status despite the existence of the virus that causes Covid has been declared to be in New York City school buildings.
29. The Court has determined that the agreement between the NYCDOE and the City only allowing religious exemptions for certain religions was unconstitutional.
30. Throughout this process, the constant harassment and coercive nature of the communication and actions taken by the NYCDOE, have created tremendous emotional stress and anxiety for me as I navigate this situation as well as my responsibilities to my family. and community. As a mother and head of household who has been the sole provider for my children, the inability to provide or guarantee stability and emotional security for them during this time, as we all continue to navigate the impacts of the pandemic, has been heart-breaking. As always, I turn to my faith for support. Still, the experience has been horribly stressful and emotionally painful.

31. It has been especially difficult to balance responding to the constant pressure from the NYCDOE, and responding to the needs of my youngest child, a high school senior (soon to be NYC Public School graduate), who should be able to celebrate her hard work and resilience (learning and succeeding through two years of a pandemic) with her mother. Having to split my attention between where it should be (senior pictures, PTA meetings, college applications), and the “new normal” of emails about “consequences of non-compliance” and imminent “unilateral termination” has taken a toll on and dampened the spirit of the entire household. This time and the “senior year” and pre-college planning is an experience our family will never have again.
32. Wanting to shield my family from additional worry and stress, I often isolate myself to express my sadness and disappointment in the injustice of the situation privately. In addition to my personal conversations with the Creator through my own prayer practice, I am grateful that I can express my emotions during my bi-monthly prayer and conversation circles with my online interfaith community, and in the restorative talking circles I participate in with others who are feeling the impact of this time. Both have been therapeutic for me, yet I know that the only real relief from the distress is through remedy and provision of reasonable accommodations that allow me to return to serving as an educator and restoring some of the stability in my day-to-day-life.
33. As a native New Yorker who has lived in, loved, and served my city for all my life, it is painful to think that I might have to move out of the City of New York to seek another job if the NYCDOE is not enjoined from continuing to deprive employees of reasonable accommodation.
34. As the eviction moratorium looms, and I am for the first time in the last 22 years of my life without and restricted from gainful employment and income, I am now vulnerable to the threat of eviction if I do not obtain relief.
35. Additionally I have experienced the gradual destruction of my financial profile and denial of access to tax-payer funded financial resources that will continue to negatively impact me and my family, even after the remedy of restoration of employment and lost income is granted. These negative impacts include:
- A. As this “Leave Without Pay,” created by the NYCDOE as a consequence of non-compliance with Covid 19 vaccine mandate, comes with the

stipulation that the time on leave is “not pensionable,” The benefits of employer funds matching, compounded interest on investments and TRS stock investment during this period will not be received and cannot be recovered.

- B. Because this time is not pensionable, the service time required for me to receive full pension benefits will be pushed back. I was also told by a UFT pension specialist, that if I were to separate from or be separated from service today, I would suffer a 27% reduction in pension payout for the rest of my life at the point of retirement.
- C. I am currently unable to purchase additional service credit due to the fact that I, (1) am not on payroll and unable to make bi-weekly payroll deductions towards service credit purchase, and (2) have no income and am restricted from gainful employment with the NYCDOE or elsewhere, making it impossible for me to pay for service credit out of pocket.
- D. I no longer have the means to pay for non-basic needs expenses which are essential to the wellbeing of my family, namely (1) the out-of-network expenses for therapy sessions for my daughter with a clinician we have come to trust and (2) access to nutrition plan and naturopathic resources & practitioners services that have been helping me to reverse underlying health condition.
- E. With no NYCDOE income and restriction from earning income elsewhere, I struggled to make on-time payments for my monthly expenses and am forced to rely on credit to stay afloat. As a result, my credit bureau ratings have decreased. As a parent and sole financial provider for my household, I fear that a negative credit rating will limit my ability to support my youngest child, who is a graduating senior, with financing her first year of college.
- F. Being placed in the “limbo” of being “employed” but “unpaid” makes it impossible to continue to independently support myself and my family financially, and renders me ineligible for receiving social services and financial support during the time when I need it most. For example, as we were informed during an October 6th UFT Zoom webinar, as an LWOP teacher, we are not allowed to receive unemployment as long as

we remain employed and receive health insurance. Additionally, as I complete applications for other tax-payer supported social supports (emergency rental assistance, utility assistance, Supplemental Nutrition Assistance, Federal Financial Aid), I am repeatedly faced with questions regarding “employment status” and “income” to determine my eligibility.

36. After having worked through the unprecedented circumstance of the Covid 19 Pandemic, making the necessary adjustments as a teacher to support my students academically, socially and emotionally, I had hoped that the 2021-22 school year would be a gentle gradual and reopening for students, families and school staff. When the mayor and school chancellor announced the aggressively in-person return to school, I was concerned; but, just as I had taught through the September 11th attacks, Hurricane Sandy disaster and the myriad of constant challenges faced by the community in which I live and serve, I told myself that *this was possible*.

37. I returned to my school building, my classroom, and most importantly, my students, with optimism. I submitted to required weekly Covid testing, masking, physical distancing, temperature checks and health screenings every day. I created a digital classroom, as instructed, in case the schools might have to be shuttered again and pivot to remote. But as I attempted to create a supportive and restorative culture in my classroom, I was faced with a growing culture of intimidation, intolerance, and targeting within the system I was serving- the NYCDOE. There was the increasingly harassing communication from the NYCDOE officials, using divisive language comparing rights and restrictions for “the vaccinated” and “unvaccinated” staff & students, being routinely & publicly questioned about my vaccination status, being constantly warned of the “consequences” of non-compliance. There were the media soundbytes of the school chancellor, mayor and governor, speaking without compassion about how “replaceable” non-compliant teachers are. Finally, being removed without a trace from the classroom & school premises with instructions “not to contact students and families,” has created additional trauma (on top of Covid 19 trauma), for both myself and my students—some of whom have reached out to inquire about why I have not returned but received no reply from me or clear answer from the DOE. We are all left without any means of closure.

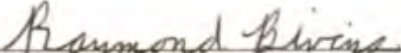
I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct.


ZENA WOUADJOU

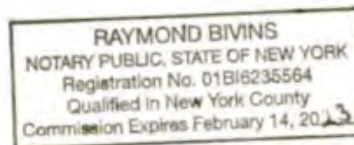
A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

Subscribed and sworn to (or affirmed) before me on this 14 day of April, 2022, by Z. WOUADJOU, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Witness my hand and official seal.


Signature of Notary Public

[Affix Notary Seal]



Vaccine Portal

DOE Vaccination Portal

D

Division of Human Capital

Thu 8/12/2021 11:33 AM



Report Phishing - Report phishing to help stop future attempts



To:

- Division of Human Capital

Dear Colleagues,

Recently, Mayor de Blasio announced that as of September 13, 2021, all City employees, including DOE employees, are required to provide proof of COVID-19 vaccination or a negative COVID-19 test once every seven days. Employees who have received at least one dose of the COVID-19 vaccine by September 13 will not have to submit weekly test results. (Employees who have one dose but who are not fully vaccinated by September 13 will still be expected to update their records when fully vaccinated to continue to be exempt from the weekly testing requirement.)

In order to be exempt from the weekly testing requirement, you must submit proof of vaccination using the DOE's Vaccination Portal, here: <https://vaccine.schools.nyc/>. For more information and updates, visit the [COVID-19 Vaccination Portal page](#) on the DOE InfoHub.

The Vaccination Portal allows you to provide the DOE your vaccination status and to upload proof of vaccination, which can be an image of your vaccination card, NYS Excelsior Pass, or other government record. Submitting this information will support New York City's pandemic response and recovery efforts, and help ensure that the DOE is a safe place to work for all employees.

The portal will also be enhanced to allow staff who do not submit proof of vaccination to submit the required weekly COVID-19 test results. More details regarding the weekly COVID testing requirement will be shared prior to September 13.

The privacy and security of your information will be protected by technical, physical, and administrative safeguards, including encryption. This information will be kept confidential in accordance with federal, state, and local laws. If you encounter technical issues using the Vaccination Portal, please contact the DOE Help Desk by [opening a ticket online](#) or calling 718-935-5100.

For more information about where to get vaccinated, visit vaccinefinder.nyc.gov or call 877-VAX-4-NYC.

For more information on where to get tested, visit

<https://www.nychealthandhospitals.org/covid-19-testing-sites/>.

Sincerely,

Safety protocols for the coming school year

From: UFT President Michael Mulgrew (noreply@uftmail.org)

To: zwaadja2000@yahoo.com

Date: Thursday, August 26, 2021, 07:33 PM EDT

[View Online](#)

[Your Rights](#)

[Your Benefits](#)

[Your Union](#)

Dear Zena,

The city today released its full health and safety plan for the 2021-22 school year, which builds on the strategies we used successfully last school year to keep our school communities safe.

Health and safety continues to be our top priority. We have been working with city and DOE officials throughout the summer to ensure that our members and our students remain safe when schools fully reopen in September amid the pandemic.

New York City schools will follow similar health and safety protocols as last school year on cleaning, ventilation, masks and personal protective equipment, and daily health screening.

Here are highlights of other features of the plan:

Physical distancing in schools

The DOE will follow the CDC recommendation to maintain at least 3 feet between students within classrooms. When it is not possible to maintain 3 feet in a given school, the DOE advises layering multiple other prevention strategies. During meal service, schools will use outdoor spaces and additional spaces in school buildings where possible.

COVID-19 testing in schools

Every school will have 10 percent of unvaccinated individuals who have submitted consent for testing in their school population tested biweekly. Students and staff who are fully vaccinated are not required to be tested.

Positive cases of COVID-19 in schools

Elementary Schools: If there is a positive case in a classroom, all students in the class will be instructed to quarantine for 10 calendar days.

Middle and High Schools: In the event there is a positive case in a classroom, students who are:

- At least 12 years old, vaccinated and not showing symptoms will continue to attend school in-person.
- At least 12 years old, vaccinated and showing symptoms will be directed to quarantine for 10 calendar days.
- Unvaccinated will be directed to quarantine for 10 calendar days. Those students who test negative on Day 5 of their quarantine can return to school on Day 7.

Remote Instruction

The mayor has finally acknowledged the need for virtual instruction for medically fragile children and for those in quarantine, something we have maintained was necessary since last spring.

We are still working out the details of this remote instruction and other challenging aspects of the safety protocols, and we will continue to push for acceptable solutions to these issues at the bargaining table.

[See the full plan](#)

Starting Aug. 31, we will train the COVID-19 building response team in every school to ensure all protocols and procedures are being followed correctly. We will be reaching out to chapter leaders with more details next week. More than 3,000 UFT members benefited from this training last fall.

Update on the vaccine mandate

We are moving ahead with impact bargaining with the city on its new vaccine mandate for DOE employees. While the UFT is a proponent of the vaccine, and we know an overwhelming majority of our members have already been vaccinated, we have a duty to make sure that the city's mandate is implemented correctly and legally.

In impact bargaining, we will ensure that the city respects our members' rights by law and the DOE-UFT contract as it implements the mandate. We will be working at the bargaining table to ensure a fair and equitable process for medical and religious exemptions, an independent review and appeal process for members who are

denied an exemption, and an appropriate outcome for members who decline to be vaccinated.

The Municipal Labor Committee is weighing a lawsuit challenging the city Department of Health’s authority to mandate the vaccine. Although our attorneys believe the mandate has a strong legal foundation, as part of the MLC, we support its effort to ensure that every detail of this mandate meets the relevant legal standards.

We know you still have questions as you prepare for the opening day of school in September. We will continue to update you on the latest developments. I hope you are able to attend our next all-member town hall on Thursday, Sept. 2, where I will report on these topics and more.

Sincerely,



Michael Mulgrew
UFT President

United Federation of Teachers
A Union of Professionals
52 Broadway, New York, NY 10004

This email was sent to: zwouadjou2000@yahoo.com
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COVID-19 Vaccination Mandate Related Exemption or Accommodation Application

Division of Human Resources <DHR@schools.nyc.gov>

Sat 9/18/2021 10:47 AM

To: Division of Human Resources <DHR@schools.nyc.gov>

Dear Colleagues,

We are writing to let you know that DOE staff members may now apply in SOLAS for a COVID-19 Vaccination Mandate Related Exemption or Accommodation.

This COVID-19 Vaccine Related Exemption and Accommodation application is for:

- Religious Exemption requests to the mandatory vaccination policy
- Medical Exemption requests to the mandatory vaccination policy
- Medical Accommodation requests where an employee is vaccinated but is unable to mount an immune response to COVID-19 due to preexisting immune conditions.

Applications should be made via the following process:

- Applications must be made using the [Self-Service Online Leave Application System \(SOLAS\)](#).
- In SOLAS, employees should select the initial option to "Request Accommodation" and then the option to apply for an Exemption and Accommodation for COVID Vaccine-Related Reasons, and then indicate the category for the application.
- All applications require supporting documentation which must be submitted at the time of application.

More information can be found on the [Coronavirus Staff Update InfoHub page](#).

Thank you,

NYCDOE Division of Human Capital

SCHEINMAN ARBITRATION AND MEDIATION SERVICES

----- X
In the Matter of the Arbitration

 between

NEW YORK CITY DEPARTMENT OF EDUCATION

 and

ZENA WOUADJOU

----- X

Re:UFT.1516

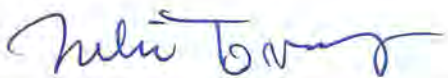
Issue: Religious Exemption

Date of Hearing: September 30, 2021

Award

APPLICATION FOR EXEMPTION: GRANTED [] DENIED [X] OTHER []

On the record before me, Appellant failed to establish entitlement to a religious exemption.



Arbitrator Julie A. Torrey



Date

Notice of Leave Without Pay - PLEASE READ

NYCDOE <noreply@schools.nyc.gov>

Sat 10/2/2021 3:12 PM

To: Wouadjou Zena <ZWouadj@schools.nyc.gov>

Dear Zena Wouadjou,

You are receiving this message because **you are being placed on a Leave Without Pay (LWOP) because you are not in compliance with the DOE's [COVID-19 Vaccine Mandate](#)**. If you are a substitute or in certain titles you have been placed in another inactive status, not a LWOP. **This means you must not report to your work or school site beginning Monday, October 4th.**

While you are on Leave Without Pay (LWOP), you:

- Cannot work and will not receive compensation, but you will continue your medical benefits
- Cannot use annual leave, CAR or sick time
- Cannot enter your work or school site
- Cannot reach out to students or families

In order to return from LWOP status, you must complete two steps using the [DOE Vaccination Portal](#)

1. Upload proof that you have received your first dose of a COVID-19 vaccine. **Proof of COVID-19 Vaccine can be an image of your vaccination card, NYS Excelsior Pass, or another government record**
2. E-sign the attestation stating that you are willing to return to your worksite within seven calendar days of submission.

Once you have completed these two steps, your HR Director and supervisor will also be notified and will work with you to plan your return date.

If you have been vaccinated this weekend and upload this information by Monday morning, you may report to work as usual on Monday, October 4th, and you will be put back on active status.

On Monday, October 4th, if you have an acceptable proof of vaccination (e.g., vaccination card, NY State Excelsior pass, or other government record) but have not been able to upload to the [DOE Vaccination Portal](#), you may show your proof to the School Safety Agent and/or Principal (or designee) at the door. You will be allowed in the building, and you must immediately upload proof of vaccination to the Vaccination Portal and confirm that you would like to return to work in order to ensure there is no break in payroll.

If you encounter technical issues accessing the Vaccination Portal, please contact the DOE Help Desk by [opening a ticket online](#) or calling 718-935-5100. If you need support uploading your proof of vaccination, please contact your principal or HRD who can do so on your behalf.

Please be advised that if you do not intend to return to the DOE after October 1, 2021, you will need to return all DOE property, including computers, IDs, blackberries, and keys, immediately. Failure to return any DOE property that has been assigned to you will delay the processing of your final payment and any payout of leave time.

Employees represented by UFT or CSA who have been placed on LWOP due to vaccination status may select (in SOLAS) special separation or leave options per the arbitration award:

- **Separation with benefits** (available in SOLAS as of Monday, October 4): Employees choosing to separate under this option:
 - **Must share their intention to separate via SOLAS by October 29, 2021.**
 - Will be required to waive their rights to challenge the involuntary resignation, including, but not limited to, through a contractual or statutory disciplinary process
 - Will be eligible to be reimbursed for unused CAR/sick leave on a one-for-one basis at the rate of 1/200th of the employee's salary at departure per day, up to 100 days, to be paid out following the employee's separation
 - Will be eligible to maintain health insurance through September 5, 2022, unless they have health insurance available from another source.
- **Extend the leave without pay due to vaccination status through September 5, 2022** (available in SOLAS as of Monday, November 1 through November 30, 2021):
 - Employees choosing this option will also be required to waive their rights to challenge their involuntary resignation, including, but not limited to, through a contractual or statutory discipline process
 - They will remain eligible for health insurance through September 5, 2022
 - Employees who have not returned by September 5, 2022 shall be deemed to have voluntarily resigned
- Beginning December 1, 2021, the DOE will seek to unilaterally separate employees who have not selected one of the options above or otherwise separated service.

For more information about where to get vaccinated, visit vaccinefinder.nyc.gov or call 877-VAX-4-NYC. For the latest COVID-19 staffing updates, please [visit the Coronavirus Staff Update InfoHub page](#).

Sincerely,

NYCDOE Division of Human Capital

New Appeal Option for Religious Exemption to the COVID-19 Vaccine Mandate

Division of Human Resources <DHR@schools.nyc.gov>

Fri 11/19/2021 5:36 PM

 1 attachments (378 KB)

Directions to use SOLAS to Request Appeal to Citywide Panel.pdf;

Dear Colleague,

According to our records, you appealed a denial of a religious exemption to the COVID-19 vaccine mandate and that appeal was not granted by the third-party arbitrator. As you may be aware, other City employees now have an option to appeal a religious exemption denial by their agency to a central Citywide Panel. Based on your status, you now have an opportunity to also appeal to this Citywide Panel.

Please note the following about this new appeal option:

- Your request will be considered by a central Citywide Panel comprised of representatives of the Commission on Human Rights, the Department of Citywide Administrative Services, and the Office of the Corporation Counsel. The determination will be made by the panel according to the standards imposed by Title VII of the Civil Rights Act of 1964, the New York State Human Rights Law, and the New York City Human Rights Law.
- To submit this appeal, you will use SOLAS, as you have before. Specific login instructions are below. There is no need to re-submit any materials you already included in your original application or in SOLAS as part of your appeal to the arbitrator, however, you may submit new documentation when you submit this appeal in SOLAS. Note that documentation from a religious official is not required but you are free to submit it.
- To be considered by the Citywide Appeal, you must submit the appeal via SOLAS by no later than 11:59 pm on Friday, December 3, 2021.
- While your new appeal is pending you will remain on Leave Without Pay status. However, the deadline to apply for the extension of your Leave Without Pay will be extended until seven calendar days after your new appeal is resolved.
- If you opted for the special provisions separation, you still may re-appeal. If your new appeal is approved, then you will be given a choice to be reinstated.

To make an appeal using this procedure:

1. Log into [SOLAS](#)
2. Click the button **at the bottom-right of your screen** titled "Apply for Leave/Exemption/Accommodation"
3. Go to section "COVID-19 Vaccine Related Exemption or Accommodation" (scroll down if needed)
4. Select "I would like to APPEAL"
5. Provide your consent by clicking "OK" on the pop-up
6. Enter reason for appeal
7. **Optional:** upload additional documentation for appeal
8. Click "Confirm Appeal"
9. Click "OK" on the pop-up
10. You should see the option text changed to "Your appeal is pending a determination"

A copy of these instructions with screenshots from SOLAS is attached to this message. Please do not reply to or forward this message.

Thank you,

NYCDOE Division of Human Capital

Your Appeal to the Citywide Panel - Additional Information

Division of Human Resources <DHR@schools.nyc.gov>

Fri 1/7/2022 7:06 PM

Colleague,

Your appeal of your religious exemption to the COVID-19 vaccine mandate has been submitted to the Citywide Appeal Panel. To assist the Citywide Appeal Panel in reviewing your religious exemption request, please provide the following additional information by Friday, January 14, 2022 at 8:00 pm:

1. Whether you have previously taken any vaccinations.
2. If you have stated that you have a personal religious aversion to foreign or other impermissible substances entering your body, please describe this with more clarity, including describing any other commonly used medicines, food/drink and other substances you consider foreign/impermissible or that violate your religious belief.
3. If you have stated that you cannot take the vaccine because of an objection to using derivative fetal cells in the development of a vaccine, please provide more information about your stated objection and whether there are other medications or vaccinations that you do not take because of this objection.
4. Any additional occasions you have acted in accordance with the cited belief outside the context of a COVID-19 vaccination, to the extent not previously described in the documentation already submitted.

To submit this information, please follow the steps below:

- Written responses should be sent in as an attached document to PanelAppealUpdate@schools.nyc.gov (*Do not send, copy, or reply to this email.*)
- Written responses must be received by email by Friday, January 14, 2022 at 8:00 pm
- Only attach new information/document - do not resend documentation that was already provided.
- Include your Name and Employee ID number in the subject line of your email.

If additional information is not provided, the Panel will consider your appeal based on the materials/information you already submitted through SOLAS.

Thank you,

NYCDOE Division of Human Resources

Reasonable Accommodation Appeal Determination

noreply@salesforce.com <noreply@salesforce.com>
on behalf of
NYC Employee Vaccine Appeals <vaxappeal@dcas.nyc.gov>
Mon 3/7/2022 2:07 PM
To: Wouadjou Zena <ZWouadj@schoools.nyc.gov>

The City of New York Reasonable Accommodation Appeals Panel has carefully reviewed your Agency's determination, all of the documentation submitted to the agency and the additional information you submitted in connection with the appeal. Based on this review, the Appeals Panel has decided to deny your appeal. This determination represents the final decision with respect to your reasonable accommodation request.

The decision classification for your appeal is as follows: The employee has failed to establish a sincerely held religious belief that precludes vaccination. DOE has demonstrated that it would be an undue hardship to grant accommodation to the employee given the need for a safe environment for in-person learning

For all employees other than DOE employees: Pursuant to the City of New York's policy concerning the vaccine mandate, you now have **three business days** from the date of this notice to submit proof of vaccination. If you do not do so, you will be placed on a leave without pay (LWOP).

For Department of Education (DOE) employees: Pursuant to New York City Department of Education policy, you have seven calendar days to extend your Leave Without Pay or return to work. If you do neither, you will be subject to termination. For further information and instructions, please see [DOE Denial of Appeal Information](#).

You have received notice that the City of New York Reasonable Accommodation Appeals Panel has denied your appeal.

If you selected to separate by October 29, 2021, or selected to extend your Leave Without Pay (LWOP) by November 30, 2021, no further action is required.

If you remain non-compliant with the New York City Health Commissioner's Order requiring vaccination of all NYCDOE staff, have not already opted to separate or extend your LWOP, and do not opt within 7 calendar days of the notice of the citywide panel's denial of your appeal to extend your LWOP or return from LWOP status, you will be terminated from service with the NYCDOE. Please note that your health insurance coverage through the City will also cease upon termination. You must return all DOE-issued equipment and materials, including your ID, to your supervisor. Information about COBRA will be mailed separately to you at the address on file in NYCAPS. Your school and/or office will be notified of your termination as well.

If you would like to extend your LWOP status, you may do so by logging into [SOLAS](#) and stating your intention **by no later than 7 calendar days after the citywide panel's notice.** Employees choosing this option:

- Will remain eligible for health insurance through September 5, 2022.
- May seek to return from this leave prior to September 6, 2022 by following the steps below on returning from LWOP status. Employees who have not returned by September 6, 2022 shall be deemed to have voluntarily resigned.
- Must waive their rights to challenge such resignation, including, but not limited to, through a contractual or statutory disciplinary process

If you would like to return to work from LWOP status, you must complete two steps using the [DOE Vaccination Portal](#) by no later than seven calendar days after the citywide panel's notice:

- a. Upload proof that you have received your first dose of a COVID-19 vaccine. Proof of COVID-19 vaccine can be an image of your vaccination card, NYS Excelsior Pass, or another government record.
- b. E-sign the attestation stating that you are willing to return to your worksite within fourteen calendar days of submission.

Once you have completed these two steps, your HR Director and supervisor will also be notified and will work with you to plan your return date. If you encounter technical issues accessing the Vaccination Portal, please contact the DOE Help Desk by [opening a ticket online](#) or calling 718-935-5100. If you need support uploading your proof of vaccination, please contact your principal or HRD, who can do so on your behalf.

If you believe you have received this notice in error because you have submitted proof of vaccination, please contact LWOPQUESTIONS@SCHOOLS.NYC.GOV immediately.

EXHIBIT #10

**AFFIDAVIT
T. MARTIN**

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

T. MARTIN, being first duly sworn on oath, deposes and declares as follows:

1. I am above the age of 18, and I am competent to make this affidavit.
2. I have worked as a Child Protective Specialist /Child Protection Manager, (CPM), for New York City Children's Services, (NYCACS), for over 24 years, since my employment to the agency in November, 1996.
3. I have contributed profoundly to the Division of Child Protection for NYCACS. Since 1996, my diligent job performance, supported progressive promotion from a Child Protective Specialist, (CPS), to Child Protective Specialist Supervisors I & 2.
4. My last promotion was to Director of Field Operations, where I worked in the capacity of Child Protection Manager, from 2006 to current. I have worked in the Division of Child Protection, where I gave exemplary services to the Children and Families of New York City, as well as the staffers that I have supervised over the years. I hold a Master of Science degree in Social Work.
5. In my role as a Director of Operations/ Child Protection Manager, (CPM), I am responsible for oversight of 3-4 child protective units. The unit consists of 1 child protective specialist supervisor 2, and up to 5 Child Protective Specialist, (CPS). As the CPM, I manage the day to day operations of protective services units responsible for reports of Child Abuse and Neglect.
6. I provide direct supervision, coaching and guidance to 3-4 child protective supervisors. I am responsible for all compliance and quality case practice initiatives, monitor field activities of the supervisory and child protective specialists. As a CPM, I ensure that operations conform to all applicable federal, state, local mandates and

agency guidelines. I am responsible for monitoring and evaluating the results of operations by reviewing aggregate and individual performance data.

7. Provide Crisis Intervention, Training, Individual, and Group coaching to support difficult case management needs. Collaboration with internal and external stakeholders to support solutions. Complete progress reports related to critical or media cases. Create and implement management controls to monitor the performance of individual zones and /or units.
8. Convened regular staff meetings and or individual conferences to monitor performance and support improvement of staffing needs within the team. Prepare performance evaluations, including recognizing outstanding achievements or making disciplinary referrals where appropriate. Collaborated with team members to identify and accomplish agency objectives.
9. **REMOTE WORK** - At the onset of the COVID-19 Pandemic, all staffers within the Division of Child Protection were afforded approval to telework. During this time, we worked remotely for 4 days, and was required to come into the office on 1 day to support administrative tasks that could not be performed remotely. At the onset of the COVID-19 Pandemic, all staffers within the Division of Child Protection were afforded approval to telework. During this time, we worked remotely for 4 days, and was required to come into the office on 1 day to support administrative tasks that could not be performed remotely. As a Child Protection Manager, I worked remotely for approximately 18 months, (March 12, 2020 – September 2021).
10. On or around 10/25/21 and 10/28/21, an email was shared to all staffers regarding Covid-19 vaccine mandate. This email also provided directions for requesting Reasonable Accommodation. See **Exhibit A**
11. On 10/26 & 10/27—I submitted documentation (via reasonable accommodation form to human resources, to request reasonable accommodation based on my religious held sincerely belief. See **Exhibit B**

12. **Accommodation Denial** - On 11/16/21- I received an email along with a copy of my reasonable accommodation request attachment from EEO, Assistant Commissioner, Mr. Siheem Rosenborough to inform me that my reasonable request accommodation was denied.
13. In this denial, Mr. Rosenborough cited the following, "*The employee expresses general anxiety and their personal beliefs concerning matters of fact and less about how the vaccine would violate a sincerely held religious, moral or ethical belief.*" It should be noted that I was never granted a hearing, neither was I granted the opportunity to speak with anyone regarding my request for reasonable accommodation, based on my religious sincere beliefs. Mr. Rosenborough's statement, as noted above, **was not a true representation** of my request for reasonable accommodation based on my sincerely held religious belief.
14. Specific guidance in the document also shared guidance and timeframe to request an appeal. It should be noted that the turn around time for an appeal of this denial only provided a 3-day window for submission of an appeal. See **Exhibit C**
15. On 11/18/21—I submitted an appeal for religious reasonable accommodation, based on the denial of accommodation shared by Mr. Rosenboroguh. See **Exhibit D**.
16. During the timeframe of my appeal, the office of Human Resource –ask.HR portal shared guidance that I am to submit to weekly Covid-19 PCR test pending my appeal decision. For this timeframe I adhered to weekly Covid-19 PCR testing and submitted results as required. It should be noted that I submitted to weekly testing by a reputable urgent care team, c/o Northwell Urgent Care.
17. 12/3/21—Human Resources, ask.HR sent me an email to inform that my reasonable accommodation request was granted, and I am to submit to weekly Covid-19 PCR testing and submission of test results. I was also provided guidance

on the expected requirement for submission of weekly PCR screening. See Exhibit E

18. During the period of October 2021 to December 2021, I adhered to weekly submission of Covid-19 PCR testing. These test results were submitted weekly to the ACS Covid portal as requested. During this timeframe of weekly Covid-19 testing, all my test results were negative.

19. On 12/22/21, I received email communication from VaccineAppeals to inform me that my records showed noncompliance with vaccine mandates, and I was given the date of 1/2/22 to submit to vaccine mandates, or I would be on Leave Without Pay, (LWOP), effective 1/3/22. This documentation shared no explanation or reason for denial given. There was no accommodation made for an appeal. See Exhibit E

20. Based on the discrepancy in the letters I received on 12/3 and 12/22, I continued to report to work, and adhered to weekly Covid-19 PCR testing and reporting to the ACS Covid test portal. To my dismay, on 1/6/22, I received a call from my Borough Commissioner, Ms. Marsha Kellam, informing me, that as per notification from Human Resources,(HR), she had to regrettably inform me that I should no longer report to work based on email communication received on 12/22/21, regarding Covid vaccine noncompliance.

21. I have reached out via phone to the office of HR, and spoke with Ms. Reid, regarding information regarding LWOP status. Via phone communication, I received no clear guidance as to the length of time for LWOP, or information regarding expectations, accommodation for health care coverage during this time. I also asked if I could use request for leave time accrued, however, I was informed that due to my LWOP status, I could not be approved for any leave accruals that I had on file.

22. Subsequently on 1/12/22, I had a phone conversation with Mr. Rosenborough, (EEO Assistant Commissioner), regarding my LWOP status as well as the discrepancy in letters shared on 12/3 & 12/22. This conversation yielded no resolution to my return to work.
23. On 1/18/22—I shared email communication with Mr. Rosenborough to recap his conversation as well as share additional updates by the Occupational Safety & Health Administration's (OSHA) ruling, as well as the Supremes' court ruling on vaccine mandates, in hopes that this would bring a resolution in my return to work status and approval of my reasonable accommodation request. **See Exhibit G**
24. As a result of my current LWOP status, I have suffered humiliation by the Administration for Children Services. Within less than 24 hours of last day of work on 1/6/22, I was locked out to the agency's database system. This resulted in my denial of access to several email communications regarding my reasonable accommodation requests.
25. I have been financially impacted and unable to provide support to my family, including my 3 young children. I have suffered humiliation based on my inability to pay my children's tuition timely, as a result of denial of payroll. I remain at risk for not having access to our medical facilities due to risk of having no health coverage. Coverage of housing cost is also at risk, due to financial instability.
26. My job provides health insurance coverage for my entire family and children and if I am terminated and lose my health insurance coverage, my children and my entire family would not have access to any healthcare and because I will not have income, I will not be able to purchase Cobra and keep my home for my children.
27. Mentally, this stressor has impacted me, by making me anxious, about what if, as well as next steps to financial freedom. I have become anxious not knowing how I will be able to meet the needs of my children or cover the cost of their tuition. Emotionally I am suffering from the abrupt dismissal from performing my job duties,

or having the ability to have some closure with my staffers. The current status of LWOP has also impacted my family, as I am not able to provide financial help to my family members when needed. The physical strain of dealing with a threat of termination has made me anxious, as I have placed value on giving valuable

28. service to the City of New York, and to treated in this manner, and being denied of my religious held sincere belief is condescending and disregard of my beliefs.

29. My LWOP status has seriously impacted our family's financial stability and could result in our denial and access to the necessities for living a decent life in this society.

30. I received notice from ACS vaccine validation and ACS HR on 1-31-22, informing me that I will be terminated effective 2/11/22. See Exhibit H

31. Finally, I have spoken to two other employees who have been granted exemption from the vaccine mandate from the New York City based on their religious beliefs as Muslims and as Hebrew. They have been allowed to continue to do weekly testing and wear a mask to work.

32. I have exhausted all my administrative remedies through the appeal process and the January 31, 2022 letter regarding my expected termination is a final decision.

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33. I understand also that many Muslims and Hebrews have been granted exemptions by New York City which is discriminatory when they deny others who also have sincere beliefs against the vaccine.

I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct.

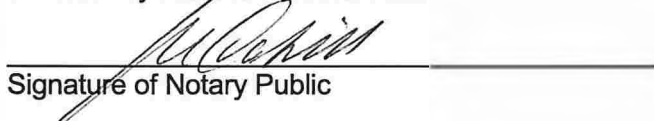
Dated this 9th day of February, 2022.


T. Martin

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

Subscribed and sworn to (or affirmed) before me on this 9th day of February, 2022, by T. Martin, proved to me on the basis of satisfactory evidence (which displays the full name) of the person(s) who appeared before me.

Witness my hand and official seal.


Signature of Notary Public

[Affix Notary Seal]

MICHELINA CAHILL
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01CA6064023
Qualified in Suffolk County
My Commission Expires 9/17/2025

Exhibits A - H

EXHIBIT A

EXHIBIT A

From: Commissioner's Announcement <Commissioner.Announcement@acs.nyc.gov>

Sent: Thursday, October 28, 2021 11:44 AM

To: Commissioner's Announcement <Commissioner.Announcement@acs.nyc.gov>

Subject: Commissioner's Announcement: Reminder About the Vaccine Mandate for City Employees: ACS Employees Are Required to Have At Least One Dose of the Vaccine by 5pm on 10/29



Reminder About the Vaccine Mandate for City Employees: ACS Employees Are Required to Have At Least One Dose of the Vaccine by 5pm on 10/29

*You Can Receive the Vaccine at 150 William Street Today & Tomorrow
From 1pm to 5pm*

As a reminder, ACS employees will be required to have at least one dose of a COVID-19 vaccine by 5pm tomorrow (October 29th). Staff who fail to submit the required documentation to OHR by November 1st will be placed on unpaid leave until proof of vaccination has been submitted. Employees have 45 days to receive and submit proof of a 2nd dose (only vaccines that require 2 doses) within 45 days of the first dose.

If you have not yet submitted proof of vaccination, please do so via the ACS CovidClear Portal. You can access ACS CovidClear from any internet connected

EXHIBIT A

device at <https://nyc-acslabs.mtzb2b.com/request-vaccination-proof>. If using a computer, the portal is NOT compatible with Internet Explorer, instead use Microsoft Edge or Google Chrome. If using an ACS-issued device, a shortcut to the link is available on the homepage. In order for submissions to be accepted, all information inputted on the form must accurately match the uploaded documentation (e.g. name, dosage date, etc.). Instructions for this easy-to-use portal can be found in the [user guide](#).

If you have not yet been vaccinated, I encourage you to visit the 150 William Street Vaccine Clinic this week. No appointment is necessary. We will be administering the vaccine today and tomorrow (1pm to 5pm) in the 150 William Street, 19th floor Queens Room. To find another vaccination site, go to nyc.gov/vax4nyc. You can also call 877-VAX-4-NYC (877-829-4692) for help finding a City-run vaccination site.

ACS employees will receive an extra \$500 in their paycheck for receiving their first shot between 10/20 and 10/29. The \$500 will be automatically processed through payroll once proof of vaccination has been submitted to OHR by 5pm on 10/29. The \$500 incentive will not be offered after 10/29.

To request a reasonable accommodation to not comply with the COVID-19 vaccine mandate based on a sincerely held religious belief or medical reason, please complete the Reasonable Accommodation Request Form For Vaccine Mandate here <https://forms.office.com/g/03aH0UpdTc> and send all supporting documentation to Ask.EEO@acs.nyc.gov. Employees who request such reasonable accommodations from today forward will be placed on LWOP beginning November 1, 2021 until their reasonable accommodation is determined or they submit proof of vaccination to OHR. Due to the volume of requests, it may take OEEEO some time to respond to your request.

For additional questions, please refer to the attached "FAQ" or contact your supervisor.

EXHIBIT A

Proctor: Mandate FAQ UQ121.pdf

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Exhibit A

FAQ on New York City Employees Vaccine MandatePolicy Details**1. What is the Vaccine Mandate?**

Per [DOHMH Commissioner's Order to Require COVID-19 Vaccination for City Employees and Certain City Contractors](#), the New York City Vaccine Mandate requires that all City employees must provide verification that they are vaccinated against COVID-19 by October 29, 2021 at 5 PM.

City employees or covered employees of a human services contractor who provide documentation of having received one dose of any COVID-19 vaccine before 5 PM on October 29, 2021 will be considered fully vaccinated even though two weeks have not passed since their final dose, so long as, for employees who received a two-dose vaccine, they provide documentation that they have received the second dose of that vaccine within 45 days after receipt of the first dose.

"Full vaccinated" means at least two weeks have passed after a person received a single-dose of an FDA- or WHO- approved COVID-19 vaccine or the second dose of an FDA- or WHO- approved two-dose COVID-19 vaccine.

Weekly testing in lieu of vaccination is only allowed if an employer has granted an employee a reasonable accommodation allowing for testing in lieu of vaccination.

Beginning November 1, City staff who are not in compliance with the vaccine mandate and have not applied for a reasonable accommodation will be placed on Leave Without Pay (LWOP). An employee may arrive at work with proof of one dose of vaccine in order to be removed from LWOP and if applicable, must submit proof of second dose within 45 days of the first shot.

2. Which employees must be vaccinated under the Vaccine Mandate?

All City employees, including interns, aides, fellows and volunteers: [The DOHMH Order \(10/20\)](#) requires that proof of vaccination must be submitted by October 29, 2021 at 5 PM.

DOC Employees: Civilian employees and uniformed members assigned to healthcare settings are also immediately subject to the mandate and must submit proof of vaccination by 5 PM on October 29. Healthcare settings include: Bellevue Hospital; Elmhurst Hospital; the DOC infirmary in North Infirmity Command; the DOC West Facility; and/or any clinic staffed by Correctional Health Services.

Other uniformed members at DOC, including Wardens and Chief titles, will be subject to the mandate effective December 1st, as the City works diligently to address the ongoing staffing situation at Rikers Island.

Employees, including subcontracted employees, of human service contracts: [The DOHMH Commissioner's Order](#) requires individuals whose salary is paid in whole or in part from funds provided under a City human services contract to be vaccinated. Contractors must certify they have received proof of vaccination from all employees no later than November 15, 2021.

Certain Employees in Public Health and Educational Settings are already required to be vaccinated:

- **Hospital Employees:** Per State Department of Health regulation 10 NYCRR 2.61, employees of any facility or institution included in the definition of “hospital” in section 2801 of the Public Health Law, including but not limited to general hospitals, nursing homes, and diagnostic and treatment centers must be fully vaccinated, and must have received at least the first dose by September 27, 2021.
- **Other Public Health Settings:** Per State Department of Health regulation 10 NYCRR 2.61, employees of (i) any agency established pursuant to Article 36 of the Public Health Law, including but not limited to certified home health agencies, long term home health care programs, acquired immune deficiency syndrome (AIDS) home care programs, licensed home care service agencies, and limited licensed home care service agencies; (ii) hospices as defined in section 4002 of the Public Health Law; and (iii) adult care facility under the regulatory authority of the State Department of Health, as set forth in Article 7 of the Social Services Law: must be fully vaccinated, and must have received at least the first dose by October 7, 2021.
- **All DOE employees:** [DOHMH Commissioner’s Order related to DOE Employees, Contractors, and Others](#) (9/15/21—effective date amended [9/28/21](#)). Proof of vaccination was required as of October 1, 2021. Weekly testing is not an alternative for these employees, except where allowed as a reasonable accommodation. This DOHMH Commissioner’s Order also applies to:
 - City employees who work in DOE settings or DOE buildings
 - Staff of any Charter school serving students up to grade 12
 - Employees of contractors hired by the City, the DOE, or a charter school to work in DOE settings or DOE buildings.
 - In addition, on September 2, 2021, the State Commissioner of Health issued a [Determination on COVID Testing](#) pursuant to 10 NYCRR 2.62 that requires all unvaccinated school staff in P-12 schools to be tested at least once a week. For DOE employees and others covered by the DOHMH Commissioner’s Order, this will effectively apply only to those who have been excused from vaccination as a reasonable accommodation.
- **Childcare Providers:** [DOHMH Commissioner Order](#) (9/12/2021). Proof of vaccination was required as of September 27, 2021 for staff of early childhood programs or services provided under contract with DOE for Birth-to-5 and Head Start services for infants, toddlers, and preschoolers including 3-k and pre-k services as well as early education programs serving young children with disabilities, Early Learn, pre-school special education pursuant to section 4410 of the Education Law, or by family home-based family child care providers contracted through family child care networks, or programs under contract with DYCD for after school, Beacon, and Cornerstone.

3. Which employees of covered contractors may continue to submit proof of vaccination OR submit weekly negative test results?

Per [Executive Order 83](#) and [Executive Order 78](#), City contractors’ and subcontractors’ employees may continue to submit one-time proof of vaccination OR test weekly if

- Their salary is paid in whole or in part from funds provided under a City contract;
- Their work includes physical interaction with City employees or members of the public; and
- They are not otherwise covered by a vaccine mandate because they work in a covered healthcare, educational, or human services setting.

Contractors were required to certify they have received proof of full vaccination or weekly negative test from all employees and subcontractor employees by October 1, 2021.

School bus drivers: Although they are not covered by orders issued by the City, on September 2, 2021, the State Commissioner of Health issued a [Determination on COVID Testing](#) pursuant to 10 NYCRR 2.62 that requires all unvaccinated school bus drivers to be tested at least once a week.

4. For the purpose of this vaccine mandate, how are you defining “contracted employee” and “City contractor”?

For the purposes of this policy, a contracted employee and City contractor are, respectively, an individual or entity whose salary or funding is paid, in whole or part, by a human services contract with a New York City agency to perform work within New York City.

Other contractors not otherwise listed in Questions 2 or 3 must still adhere to the COVID-Safe Vaccine or testing requirement detailed in [Executive Order 83](#) and [Executive Order 78](#).

The City strongly urges organizations to adopt this policy as broadly as possible and cover all of their employees, as the City has done. This policy is intended to keep your employees and the clients they serve safe.

5. Does the vaccine mandate apply to the clients served by the City or its contractors?

No. This policy is specific to City employees and City contractors including their staff, volunteers and interns. City contractors should integrate this policy into their own COVID-19 return to office and health and safety policies. Clients must wear face coverings at all times.

6. Does the vaccine mandate cover interns?

Yes, interns, aides, and fellows are covered by this policy. All agencies should update their policies to include this requirement.

7. Does the vaccine mandate cover volunteers?

Yes, volunteers are covered by this policy. All agencies should update their volunteer policies to include this requirement.

8. Does this mandate extend to subcontractors?

Yes, this policy extends to subcontractors including building security, food service employees, and other subcontractors.

9. Do these contractor requirements apply to micropurchase vendors?

Yes, micropurchase vendors are subject to this Commissioner’s Order, however due to the small size of their contract and how difficult it would be to track compliance for so many small and short-term vendors, they do not need to submit a certification and policy. Agencies should check such contractors for proof of vaccination or a negative test (if a reasonable accommodation) prior to their entry to a job site. For example, a photographer who comes to the office for half a day would need to show proof of full vaccination or a negative test.

10. Will the City be providing on-site vaccination at City worksites?

Vaccination is widely available and convenient for all New Yorkers. The City will continue to bring mobile vaccination clinics to select worksites, including certain City worksites.

Exhibit A

Vaccination

- 11. If an employee, intern, or volunteer gets their first dose prior to when they are subject to this requirement will they be required to provide weekly test results?**

A City employee who provides documentation of having received one dose of any COVID-19 vaccine on or before October 29, 2021 at 5 PM will not be required to undergo weekly testing.

An employee who receives the first dose of any COVID vaccine after October 29, 2021 will be required to undergo weekly testing until they have submitted proof of full vaccination.

Regardless of date of vaccine, if the City employee received a two-dose vaccine, the employee must provide documentation that the second dose has been administered within 45 days of the first dose.

- 12. Where can people be vaccinated?**

Vaccination is free and convenient across the five boroughs and in bordering counties. Over 95% of all NYC residents live within half a mile of a public vaccination site. Convenient vaccination sites can be found via <https://www.nyc.gov/vaccinefinder> or by calling 877-VAX-4-NYC. For anyone who lives within the five boroughs (including City employees and contractors' employees), the City is also making at-home vaccination free and available; call 877-VAX-4-NYC or visit <https://www.nyc.gov/homevaccine> to sign up to have a team member come to your home to vaccinate you and any other household members, with any of the three FDA-authorized vaccines you choose.

- 13. Which vaccines count? What if the employee has been vaccinated with a non-FDA approved vaccine?**

Only FDA-authorized and WHO-approved vaccines will be accepted.¹ As of the date of this FAQ, FDA-authorized vaccines include the Pfizer, Moderna, and Johnson & Johnson vaccines.

It is possible that someone was vaccinated outside of the country with a non-FDA approved vaccine. Only vaccines listed for emergency use by the World Health Organization (WHO) are acceptable and the person needs to have received a complete vaccine series. [The current list of vaccines authorized by the WHO for emergency use is here.](#)

People who have started, but not completed, a full series of a vaccine that is approved by the WHO, but not by the FDA, should receive a complete vaccine series with a U.S. FDA-authorized vaccine.

Employees, interns and volunteers who have been vaccinated outside the U.S. may submit their vaccine record from the place where it was administered.

¹ Exception: clinical trial participants who received two doses of Novavax are considered fully vaccinated although not authorized by FDA or WHO.

Exhibit A

14. What counts as proof of vaccination?

Employees, interns, and volunteers may submit, using secure means, proof of vaccination directly to their own agency or contract organization. Employers should maintain a confidential record of the employees who have demonstrated proof of vaccination.

Proof must be:

- An official CDC card or other official immunization card bearing the employee's name and date(s) of vaccine administration. The employer must see this document or a photograph of it;
- An Excelsior Pass issued by the State of New York; or
- The NYC COVID SAFE app that clearly displays an image of the CDC card or other official immunization card with the above noted requirements. The NYC COVID SAFE app can be downloaded for Apple or Android (or by searching "NYC COVID Safe" on Apple app store or Google Play store).

Proof of vaccination for vaccines administered outside the U.S. must be an official immunization record and will include all of the following:

- First name and last name
- Date of birth
- Vaccine product name (ex: Moderna)
- Lot number (note: lot number may not be included on all official cards)
- Date(s) administered
- Site where the vaccine was administered or person who administered the vaccine or the country where the vaccine was administered.

15. How will City agencies use the proof of vaccination?

Agencies will collect vaccination proof from City employees using secure means. This information will be used to identify employees who have not submitted proof of full vaccination and to compile a list of employees who have not submitted proof of vaccination and must wear a face covering in both shared and non-shared spaces and must submit weekly negative COVID-19 test results until their vaccine series is complete.

See information below under "Enforcement and Compliance" regarding consequences for failure to comply.

16. What if an employee, intern, or volunteer is vaccinated, but lost their CDC vaccination card?

Employees, interns, and volunteers who lost their CDC vaccination card should contact the medical provider where they got vaccinated to get an official record of vaccination. If an employee, intern or volunteer was vaccinated in New York City, they can request their immunization record through the DOHMH self-service portal [My Vaccine Record](#).

17. Can employees take time from their shift to get vaccinated?

All employees are allowed to take up to four hours to get vaccinated during their workday. Employees who get a vaccine may take up to four hours on each of the days they receive a vaccination. Please see [PSB 600-4 Temporary Citywide Policy for Vaccination of City Employees against SARS-CoV-2](#) for more information. In addition, all employees may be entitled to paid excused leave for any side effects experienced due to the vaccination. Please see [Updated](#)

Exhibit A

[Guidance for City Agencies on Leave Policy Applicable During the Outbreak of Coronavirus Disease 2019 \(COVID-19\)](#) for more information.

It is suggested that City contractors adopt the same or similar policy. The City will reimburse contractors for costs associated with providing time off to employees getting vaccinated.

18. Will the City be offering excused time off to get a booster dose? Will there be additional benefits (additional comp time) for employees that receive a booster shot?

Time off to get a booster shot is covered under [PSB 600-4 Temporary Citywide Policy for Vaccination of City Employees against SARS-CoV-2](#), but additional compensatory time is not offered for the booster.

19. Will employees, interns, and volunteers be expected to pay out of pocket for vaccine?

No. Vaccination is free to all New Yorkers including City and contracted employees; the majority of City employees have chosen to protect themselves and their community by getting vaccinated.

20. What incentives are available for vaccination?

From October 20-29, 2021, employees will be eligible to receive \$500 through payroll, in addition to a \$100 gift card available at City operated vaccination sites, if they receive their first vaccine dose during that time period.

FISA-OPA will provide agencies with a new PMS pay event code to enter when proof of vaccination is provided by an employee to their agency for the period of October 20-29, 2021.

Please visit <https://www1.nyc.gov/site/coronavirus/vaccines/vaccine-incentives.page> for a full list of incentives offered for vaccination.

In addition, City employees are eligible to receive up to three hours of compensatory time under [PSB 600-4 Temporary Citywide Policy for Vaccination of City Employees against SARS-CoV-2](#).

Reasonable Accommodations

21. Will there be any medical or religious accommodations?

Medical or religious accommodations will only be granted in limited circumstances. If the employee, volunteer, or intern has medical or religious concerns that prevent them from complying with the vaccine mandate, they should speak to their EEO officer regarding a potential reasonable accommodation. Any employee who is awaiting a reasonable accommodation determination from their agency must continue to submit a negative test result within every seven day period.

23. On what basis can an employee apply for a reasonable accommodation if they have reason not to be vaccinated?

Reasonable accommodations may be granted only for documented medical or religious reasons.

The NYC Department of Health has indicated that the *medical basis* for a *permanent* medical exemption includes:

Exhibit A

- Documented contraindication such that an employee cannot receive any FDA-authorized vaccines, with contraindications delineated in [CDC clinical considerations for COVID-19 vaccine](#).
- Limited cases in which, despite seeking vaccination, an individual is unable to mount an immune response due to preexisting immune conditions.

The NYC Department of Health has indicated that the *medical basis* for a temporary medical exemption includes:

- An employee who is within the isolation period after COVID-19 infection
- An employee who is within 90 days of monoclonal antibody or convalescent plasma treatment of COVID-19
- Treatments for conditions as delineated in CDC clinical considerations, with the understanding that CDC guidance can be updated to modify considerations over time, and/or determined by a treating physician with a valid medical license responsible for immunosuppressive therapy, including full and appropriate documentation that may warrant temporary medical exemption for some period of time because of active therapy or treatment (e.g. stem cell transplant, CART-cell therapy) that would temporarily interfere with the patient's ability to respond adequately to vaccination
- Pericarditis or myocarditis not associated with COVID-19 vaccination or pericarditis or myocarditis associated with COVID-19 vaccination

Note: The length of *temporary* medical exemption will be determined on a case-by-case basis and with consideration for provided medical documentation. An employee will be required to be vaccinated at the end of the temporary period.

A sincerely held *religious, moral or ethical belief may be a basis* for a religious accommodation. A request based solely on a personal, political, or philosophical preference does not qualify for a religious accommodation.

24. What alternative to vaccination is allowed if an employee is granted a reasonable accommodation?

For requests filed after October 27, 2021, the only allowable accommodation from vaccination without causing an undue hardship and/or disruption is submission of a weekly negative test result.

25. Is there a deadline for a City employee apply for a reasonable accommodation from being vaccinated?

Yes, there is a deadline to apply:

- Existing City employees must apply for a reasonable accommodation with their agency EEO officer for this vaccine requirement no later than October 27, 2021 in order to avoid Leave without Pay (LWOP) on November 1, 2021. Employees who seek reasonable accommodations from their agencies after October 27, 2021 will be placed on LWOP until the reasonable accommodation is decided, including any appeals.
- New hires must apply for a reasonable accommodation before the start date of their new position.

Exhibit A

26. How should an employee apply for a reasonable accommodation from being vaccinated?

An employee seeking a reasonable accommodation from vaccination should apply to their EEO Office (although some agencies designate a different entity to handle these requests). Any employee who requests a reasonable accommodation from their agency on or before October 27, 2021 and is awaiting a reasonable accommodation determination from their agency or an appeal decision must continue to submit a negative test result within every seven day period.

27. Can an employee appeal the reasonable accommodation of their agency?

Yes. An agency that denies a reasonable accommodation request must provide written information to the employee whose request has been denied on the appeals process, including a link to the City's online appeals request portal (to be distributed to APOs).

If an employee is denied a reasonable accommodation by their agency, they may appeal the decision **within 3 business days**.

An employee may submit an appeal via the online review request portal (to be distributed to EEOs and APOs), which will automatically notify their agency EEO Officer of the appeal. The request for review must include a reason for the appeal. Upon notification of the appeal, the Agency EEO Officer will upload all records concerning the Agency determination of the reasonable accommodation request within **one business day**. Supplemental material may be requested to make a determination on appeal.

An agency must issue a written determination. If the accommodation is denied or the employee disagrees with the accommodation granted, the written determination must also include information about the appeals process.

Review of all appeals will be completed before November 25, 2021.

28. What is required of an employee while awaiting the determination of their reasonable accommodation and/or reasonable accommodation appeal?

An employee who requested a reasonable accommodation from their agency on or before October 27, 2021 and is awaiting a reasonable accommodation appeal determination must continue to submit a weekly negative test result within every seven day period, as previously required. Employees who seek reasonable accommodations from their agencies after October 27, 2021 will be placed on Leave Without Pay (LWOP) until the reasonable accommodation is decided, included any appeals.

29. What is required of an employee if their appeal is denied?

If an employee's appeal is denied, they must submit proof of the first dose of a vaccination **within 3 business days**, and if required, of a second dose within 45 days thereafter. If an employee refuses to be vaccinated within this timeframe after an appeal is denied, they will be placed on Leave Without Pay.

Testing

30. Who must submit to testing?

Employees who are awaiting a determination on a reasonable accommodation request submitted on or before October 27 or who were granted a reasonable accommodation will be required to submit to weekly testing. An employee who receives the first dose of any COVID after October 29, 2021 will be required to undergo weekly testing until they have submitted proof of full vaccination.

All contractors that are not covered by a vaccine mandate must continue to comply with the COVID-Safe vaccine or testing requirement.

31. Where can people find testing?

If an employee is seeking testing, the City of New York offers free COVID-19 testing in convenient locations across the five boroughs and will continue to do so, but employees may go to their trusted medical professionals as well. There are hundreds of PCR testing locations in the five boroughs; the list can be found at <http://www.nyc.gov/covidtest>. If employees prefer to receive a test specifically at a City-sponsored site, that list can be found here: <https://www.nychealthandhospitals.org/test-and-trace/testing>.

32. When must employees who have been granted a reasonable accommodation submit a weekly test?

Beginning November 1, for employees with a reasonable accommodation to submit a weekly negative test instead of submitting proof of vaccination, for each day that an employee reports to work onsite, they must have had a negative COVID-19 PCR test taken within the preceding seven days. This test result, which must be submitted to HR, must be negative. An employee who has been tested within the preceding seven days but is still waiting for the result may report to work with a pending test result as long as they meet the criteria of the health screening, and provided that the test result is submitted to HR as soon as it becomes available.

Ordinarily, results should be submitted within two to three days of specimen collection and an agency may follow up with an employee who has not yet submitted results to ensure compliance.

33. For employees, interns, and volunteers who have a reasonable accommodation to do weekly testing, which tests qualify?

Only polymerase chain reaction (PCR) tests processed by medical professionals qualify. These tests usually take one-two days to process at a lab, but some PCR tests are rapid tests. Both rapid and non-rapid PCR tests can be used. An employee may request a reasonable accommodation for a different type of test.

34. For employees, interns, and volunteers who have a reasonable accommodation to do weekly testing, do rapid tests qualify?

Rapid PCR tests will qualify for this requirement.

35. For employees, interns, and volunteers who have a reasonable accommodation to do weekly testing, do at-home tests qualify?

At-home tests will not be accepted at this time.

36. What happens if an employee, intern, or volunteer tests positive?

An employee, intern or volunteer who tests positive must not report to work until they meet all the criteria of the health screening and all of these conditions are met:

- a. It has been at least 10 days since their symptoms began or, if asymptomatic, since a positive test result;
- b. They have not had a fever for at least 24 hours without the use of a fever reducer; and
- c. Other respiratory symptoms (cough, shortness of breath) have improved.

An employee must also notify HR if they develop symptoms of COVID-19 while in the office or if they test positive for COVID-19 and were in the office during their infectious period. HR will then activate the Rapid Response Team, as detailed in [Managing the Office in the Age of COVID-19](#).

For information on the City's Leave Policy during COVID-19, please see: [Updated Guidance for City Agencies on Leave Policy Applicable During the Outbreak of Coronavirus Disease 2019 \(COVID-19\)](#).

37. Can an employee who is not vaccinated, has received a reasonable accommodation, and has tested positive for COVID-19 be exempt from the weekly testing requirement?

Per the NYC Department of Health, unvaccinated staff who test positive should not get tested again until at least 90 days after their initial positive test and will need to be exempt from weekly testing during that time. However, they should be strongly encouraged to get vaccinated.

Employees who are subject to the weekly testing requirement because they have been granted a Reasonable Accommodation should seek a modification of their Reasonable Accommodation to be exempt from testing in these circumstances, and must provide appropriate documentation. They should get tested during this time if they develop new symptoms that are consistent with COVID-19.

See DOHMH guidance: <https://www1.nyc.gov/assets/doh/downloads/pdf/covid/covid-19-testing-recommendations.pdf>.

38. What happens if an employee continues to test positive within three months of recovering from COVID-19?

Employees who test positive within three months after recovering from the first COVID infection will not receive COVID-19 excused leave during that three-month period unless they have new COVID-19 symptoms.

39. What happens if an employee is supposed to come in, but says their test results are pending? Do we track how many times someone does this?

Employees who have been tested, but whose test results are pending should come to work as long as they meet the criteria of the health screening. They must provide proof of test collection while they await the result. Repeated delays in compliance should be reviewed by applicable HR staff, with disciplinary action taken, as necessary.

40. Can City and contracted employees take time from their shift to get tested?

City employees subject to weekly testing under an approved reasonable accommodation may be tested during their work hours, but some restrictions apply:

- Employees should work with their supervisors to schedule a time for testing.
- Employees may be required to get tested at the beginning or end of their shift.
- If testing is offered at an employee's place of work, they may not use work hours to be tested off-site.
- If testing is not onsite at the workplace, employees should get tested in a place close to their home or work.
- Employees will be required to document time taken to seek testing and will be required to seek the fastest option available.
- Testing time should be scheduled so that it does not have any detrimental impact on operations.

Contracted organizations may develop their own policies and procedures with regards to testing. However, no additional funding will be provided associated with time off for testing.

41. Are employees required to be tested at an onsite location?

No, employees may choose where to be tested, but if testing is offered at an employee's place of work, they may not use work hours to be tested off-site.

42. May employees use overtime to get tested?

No, City employees may not use overtime to get tested.

43. Will tests at City sites be billed to employees' insurance (which the City pays)?

For many of the tests conducted, employee insurance will be billed. At City-run sites, FEMA requires that the City attempt to bill for all tests in order to seek federal reimbursement for any costs not covered by insurance. For this reason, the City will attempt to bill for most tests performed by a City provider regardless of the fact that the City pays for the insurance coverage. The City does provide some testing without billing for it because the testing is funded by sources of federal funds that are not subject to FEMA rules and regulations.

44. Who is responsible for paying for tests at non-City sites (to the extent it isn't covered)?

Tests are widely available at no cost to individuals across dozens of City-sponsored test sites. Private providers may charge for testing or charge a co-pay and all New Yorkers are strongly encouraged to ask about associated costs before being tested. Most providers across the City will attempt to bill insurance for test collection.

Face Coverings

45. Do all employees and visitors have to wear a face covering, even if fully vaccinated?

Yes. Anyone in a shared indoor City workspace able to medically tolerate a face covering must wear a face covering that covers their mouth and nose at all times (except when eating or drinking). A shared indoor City workspace is a communal or open office setting in which individuals cannot be separated by a closed door.

An employee who has provided proof of full vaccination may remove their face covering when in an unshared indoor City workspace.

Any City employees and contractors conducting City business outside, who are able to medically tolerate a face covering, must wear a face covering at all times (except when eating and drinking) when interacting with members of the public. See [Executive Order 79](#).

Further, a face covering is required for all individuals (including those who are fully vaccinated) at all times when interacting with the public or present in a pre-kindergarten to twelfth grade school, public transit, homeless shelter, correctional facility, nursing home, or health care setting.

46. What additional face covering requirements apply to employees, volunteers and interns who are not fully vaccinated?

Employees, interns, and volunteers who have not provided proof of full vaccination must wear a face covering at all times, even when alone in a non-shared space, unless they have an approved reasonable accommodation.

Agency HR staff will generate a list of employees, volunteers, and interns required to wear a face covering in non-shared spaces because they have not submitted proof of vaccination. The list will be securely shared with designated supervisors and other designated agency personnel who will conduct audits of face covering compliance. Agencies should proactively audit for compliance on a regular basis. In the compliance support role, designated agency staff must never inquire about an employee's medical condition; such inquiries may be a violation of federal law. Refer to the guidance issued by the City's Chief Privacy Officer on 7/30/21 for further information about handling individuals' confidential vaccination status and related information, or email PrivacyOfficer@cityhall.nyc.gov.

Enforcement and Compliance

47. Do staff have to tell the City whether or not they are vaccinated?

Yes. Vaccination is required for all City employees covered by [the DOHMH Order](#) as a term of employment.

48. How will City agencies track compliance?

Each agency will track compliance for their employees, interns, and volunteers. Agencies are responsible for verifying individual vaccination status of each employee, intern, and volunteer, and monitoring compliance with vaccine and face covering requirements, and where applicable, with weekly testing.

49. Are there privacy concerns with handling employee vaccination information, documents, and COVID-19 test results?

Employee vaccination information and COVID-19 test results are considered confidential medical information under the federal Americans with Disabilities Act and are also types of identifying information that are protected under the City's privacy law. This information must be kept private and secure and may only be shared with designated agency staff and City officials. Refer to guidance issued by the City's Chief Privacy Officer on July 30, 2021 for further information on handling this information, or email PrivacyOfficer@cityhall.nyc.gov.

50. What tools can an agency use to collect and store vaccination or testing proof?

Agencies developing or utilizing a survey tool to collect proof of employee vaccination status or COVID-19 test results, because it is confidential medical information, must only use tools that have successfully completed the citywide application security review and have the appropriate controls to support the storage, transmission, and handling of information classified as "Restricted" information under the NYC Cyber Command Policies & Standards. If an agency procures a vendor to develop its survey tool, the contract should include NYC3 security provisions and be reviewed by the Chief Privacy Officer to ensure appropriate privacy protections are included. For further information, contact PrivacyOfficer@cityhall.nyc.gov or legal@cyber.nyc.gov.

51. What is the penalty for non-compliance? Will non-compliant employees be subject to termination?

Beginning November 1, City staff who are not in compliance with the vaccine mandate and have not applied for a reasonable accommodation will be placed on Leave Without Pay (LWOP). An employee may arrive at work with proof of one dose of vaccine in order to be removed from LWOP and if applicable, must submit proof of second dose within 45 days of the first shot. Employees who refuse to comply will be terminated in accordance with procedures required by the Civil Service Law or applicable collective bargaining agreement.

It is important for agencies to establish a system to ensure that no employee who has been notified of non-compliance and Leave Without Pay returns to the worksite until they have submitted required proof of compliance.

It is suggested that contracted organizations adopt a similar policy. If providers are non-compliant, contracting agencies will exercise any rights they may have under their contract.

52. How long should an employee be on Leave Without Pay (LWOP) before termination proceedings begin?

Absent any collective bargaining agreement providing for other procedures, employees should be placed on LWOP effective November 1 and may be subject to discipline or other adverse employment action. Further guidance will be forthcoming.

53. How will the Vaccine Mandate be enforced for contracted organizations?

Except for micropurchase vendors, all City contractors with covered contracts must submit a certification signed by the organization's Executive Director or equivalent that they are complying with the City's Vaccine Mandate by uploading it directly to their PASSPort vendor profile or sending it to their contracting agency if they do not have a PASSPort account. Organizations must also submit their updated internal policies that reflect the mandate.

The Certification of Vaccine Mandate should be uploaded to the Miscellaneous Documents section of the Documentation tab in your PASSPort vendor profile, under the label "Vaccine Mandate." Vendor Policies Establishing Vaccine Mandate should be uploaded to PASSPort with [Executive Order 78](#) ([/Executive Order 83](#)) and [Executive Order 79](#) policies under the label "Vendor Vaccine and Face Covering Policies"

If an agency does not manage contracts via PASSPort, it must independently collect contractor certifications and policies and monitor them in an ongoing manner.

Note: this certification is in addition to the certification that they are complying with [Executive Order 78](#) ([Executive Order 83](#)) and [Executive Order 79](#), which requires face coverings for unvaccinated employees and compliance with the COVID-Safe vaccine or test requirement.

Contractors are subject to reviews for compliance. Like all other contract provisions, if providers are non-compliant, contracting agencies will exercise any rights they may have under the contract.

54. In City agencies, do staff have to show proof of vaccination or testing multiple times a day every time someone comes in and out of the workplace?

No. HR will be responsible for monitoring proof of vaccination, or weekly test compliance for those who have a reasonable accommodation.

55. Does a test have to be within the previous seven days or in the same calendar week?

The test must be within the previous seven days and does not need to be in the same calendar week.

56. Will employees be required to use the City's NYC COVID Safe application?

No. The NYC COVID Safe application should be on every phone issued by the City of New York, if an employee wishes to use it. However, employees may choose to provide one-time documentation of vaccination or provide weekly documentation of a test via any proof acceptable to the employer and consistent with guidance provided above.

Where can I find...

- Vaccination sites: www.nyc.gov/vaccinefinder
- Vaccination appointments: www.vax4nyc.nyc.gov and 877-VAX-4-NYC
- How to schedule an at home vaccine appointment: www.nyc.gov/homevaccine and 877-VAX-4-NYC
- A testing site: www.nyc.gov/covidtest
- A City-run testing site: www.nychealthandhospitals.org/test-and-trace/testing/
- A doctor or nurse to talk with about my vaccination concerns: call 311 and ask to talk to a clinician about COVID-19 vaccination
- Assistance for New Yorkers experiencing Long COVID: www.nyc.gov/aftercare
- CPO Privacy Guidance dated 7/30/21 contact PrivacyOfficer@cityhall.nyc.gov

Vaccine Mandate Timeline:

- **10/20-10/29:** City employees may receive \$500 incentive via payroll to receive first vaccine dose
- **10/27:** Last day to submit reasonable accommodation request to avoid being placed on Leave Without Pay (LWOP) on 11/1/2021.
- **10/29 at 5 PM:** Deadline to submit proof of vaccination to avoid being placed on LWOP 11/1/21.
- **11/1:** Employees placed on LWOP who have not submitted proof of at least one dose of vaccine.
- **11/25:** Final determinations of appeals

Exhibit B

Appendix A

REASONABLE ACCOMMODATION REQUEST FORM

This form and all information must be kept confidential.

APPLICANT/EMPLOYEE INFORMATION		
Print Full Name Tracy-Ann Francis-Martin		<input type="checkbox"/> Job Applicant <input checked="" type="checkbox"/> Current Employee <input type="checkbox"/> Other
Home or Work Address 33 Swezey Lane, Middle Island, NY 11953--Home 92-31 Union Hall St, 3rd Floor-- Work		Phone Number (631) 438-7822
EMPLOYEE INFORMATION (Complete this section if you are working at the agency even if you are currently on leave.)		
Civil Service Title Admin Director of Social Services		Office Title Director of Field Operations[CPM]
Office Telephone Number (917) 769-1866	Division Child Protection	Supervisor Name and Phone Number Sharon Rogers, (718) 725-6666
Location 92-31 Union Hall St, Queens, NY		
APPLICANT INFORMATION (Complete this section only if you are a <u>job applicant</u>)		
Position/Title Sought		Division/Unit (if known)
Location of Position (if known)		
Part(s) of employment process for which an accommodation is requested		
<input type="checkbox"/> Job Application	Job Vacancy Notice Number (if known):	

<input type="checkbox"/> Interview	Interview Date:
<input type="checkbox"/> AtWork	
<input type="checkbox"/> Other (please specify):	
Agency Contact Person (if known)	Phone Number
Basis of reasonable accommodation request:	
<input type="checkbox"/> Disability <input type="checkbox"/> Religion	
Describe your religious belief/practice/observances and identify the accommodations that you request: <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/>	
<input type="checkbox"/> Status as Victim of Domestic Violence Sex Offenses or Stalking <input type="checkbox"/> Pregnancy, childbirth or a related medical condition	
Identify the situation which requires accommodation. <u>Be specific.</u> (Attach additional sheets of paper, if necessary.)	
Is the condition for which you are requesting an accommodation	
<input type="checkbox"/> Permanent <input type="checkbox"/> Temporary <input type="checkbox"/> Unknown	
If temporary, anticipated date accommodation(s) no longer needed:	

Describe the nature of reasonable accommodation requested and how the accommodation will assist you to perform the essential functions of the position held or desired, or to enjoy the benefits and privileges of employment. Please be specific.

(Attach additional sheets and present supporting documentation as appropriate.)

See attached documentation.

If equipment is requested, please specify brand, model number and vendor, if known.

N/A

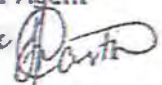
For Reasonable Accommodations based on Disability you may be required to provide verification by a health professional or a disability service provider (e.g. ACCESS-VR, NYS Commission for the Blind and Visually Impaired).

This CONFIDENTIAL documentation should be provided
to the Disabilities Rights Coordinator or EEO Officer.

Documentation must:

- ☒ Be written on the official letterhead of the qualified health professional or health professional's organization.
- ☒ Identify the health professional's credentials. e.g., M.D., D.O.
- ☒ Be dated and signed by the health professional.
- ☒ Describe the severity of the disability and its limitations in detail as they currently exist and only in relationship to the job.
- ☒ State whether the duration of disability is permanent or temporary or unknown.
- ☒ If temporary, specify the date the disability is expected to no longer require accommodation.
- ☒ Indicate the extent to which the accommodation will permit you to perform the essential functions of the job or to enjoy the benefits and privileges of employment.

I certify that I have read and understood the information provided in this request, and that it is true to the best of my knowledge, information and belief.

Date 10/26/21	Requestor's Signature/Authorized Agent Tracy-Ann Francis-Martin 
------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------

DO NOT WRITE IN THIS SECTION		
To be completed by agency staff supervising the employment application process or supervising an employee requesting a reasonable accommodation. After completing, supervisors must provide a copy of the entire form to the employee or applicant, and immediately send a copy to the EEO Officer or DRC.		
Name and Title of Supervisor or Staff supervising application process:		
Unit/Division:		
Location:		
Phone Number:		
Date Request Received:		
<input type="checkbox"/> Supporting Documentation Included	<input type="checkbox"/> Supporting Documentation Not Included	Date:
Signature		
To be completed by the DRC or EEO Officer		
Date Request Received by DRC or EEO Officer:		
Date Supporting Documentation Received by DRC or EEO Officer (if any):		
Signature		

Appendix B

CITY OF NEW YORK

AUTHORIZATION FOR RELEASE OF MEDICAL INFORMATION

Please see attached

Authorization for Release of Health Information Pursuant to HIPAA form

Exhibit B

Appendix C

REASONABLE ACCOMMODATION REQUEST RECORD OF STEPS AND OUTCOME	
Name of Applicant/Employee: Tracy-Ann Francis-Martin	Telephone Number (917) 769-1866
Address: 33 Swezey Lane, Middle Island, NY11953	
Request Number	Received by:
Date Received:	Time Received:
Method of Filing <input type="checkbox"/> In Person <input type="checkbox"/> Phone <input type="checkbox"/> Mail <input type="checkbox"/> E-mail	
DOCUMENTATION OF STEPS TAKEN TO CONSIDER REQUEST	
DATE	COMMENTS

EXHIBIT

RESOLUTION	
<input type="checkbox"/> Granted Date:	Type of Accommodation Granted: <input type="checkbox"/> As requested <input type="checkbox"/> Different from what was requested Please provide specifics: (Attach additional sheets as needed.)
<input type="checkbox"/> Denied Date:	Reason for Denial:
Date when letter granting or denying the requested accommodation was sent to employee or applicant:	

Signature: _____ Date: _____

Appendix D

GRANTING OF REASONABLE ACCOMMODATION REQUEST	
To be completed by Deciding Official	
1. Full Name of Individual requesting reasonable accommodation:	
2. Basis for reasonable accommodation request:	
<input type="checkbox"/>	Disability
<input type="checkbox"/>	Religion
<input type="checkbox"/>	Status as Victim of Domestic Violence Sex Offenses or Stalking
<input type="checkbox"/>	Pregnancy, childbirth or a related medical condition
3. Specific Accommodation Requested:	
4. Decision:	
<input type="checkbox"/>	Reasonable accommodation granted as requested
<input type="checkbox"/>	Alternative accommodation granted
Describe Accommodation Granted:	
Deciding Official	
Name (print):	
Signature:	
Date granted: _____	
Telephone: _____	Email: _____
cc: EEO Officer, and if applicable, Agency Personnel Officer, manager/supervisor.	

Exhibit B



David A. Hansell
Commissioner

William Fletcher, LCSW
Deputy Commissioner

Marsha Kellam
Borough Commissioner

Division of Child Protection

165-15 Archer Avenue
Queens, NY 11433

(718)557-1745 tel.

To: Equal Employment Opportunity
From: Tracy-Ann Francis-Martin, CPM
Date: 10/26/2021

RE: Accommodation for Covid-19 Vaccination Reasonable Accommodation

I am submitting this letter to support my application for exemption and reasonable accommodation from the COVID-19 vaccine mandate for Municipal Employees.

My beliefs embodied in the Healthful Living, through practical, holistic, and living a healthy lifestyle, is contradictory to the mandates for the COVID-19 Vaccine. As a result of this belief, I stand firm in my faith of the biblical health laws of the bible which gives me guidance for my life with regards to what goes into my body. My belief in my religious obligation through practical, holistic living, and healthy lifestyles, supports the maintenance of my healthy immune system. I am seriously concerned for the impact of the COVID-19 vaccine and my immune system being compromised. While I give credit to obeying the laws of the land and ascribe to taking advice from health care physicians and organizations, the final call and decision regarding to medical care, is ultimately my personal decision.

I Tracy-Ann Francis-Martin, respectfully seek a reasonable accommodation concerning the New York City's Municipal Employee's Covid-19 vaccine mandate. I hereby request a reasonable religious exemption and accommodation to not take the COVID-19 vaccine at this time.

Below are the highlights that qualifies me for the right to my religious beliefs and convictions according to the laws of the land.

Employers have an obligation to accommodate an employee's sincerely held religious belief under Title VII of the Civil Rights Act (Title VII), unless the accommodation creates an undue hardship. A sincerely held religious belief can include an employee's religious-based objection to vaccinations.

Under Title VII an employer should thoroughly consider all possible reasonable accommodations, including, telework, and re-assignment.

Under Title VII, once an employer is on notice that an employee's sincerely held religious belief practice or observance prevents the employee from getting a Covid-19 vaccine, the employer must provide a reasonable accommodation, unless it would pose an undue hardship.

All employers, including state and local government employers, with 15 or more employees are covered under the ADA and Title VII. Federal government employers are also covered by Title VII.

Title I of the Americans with Disabilities Act (ADA) requires employers to provide reasonable accommodation to qualified applicants and employees with a disability unless the employer can demonstrate that doing so creates an undue hardship to the employer or poses a direct threat to the safety of the employee or others in the workplace.

In 2015, the Supreme Court clarified the requirements of Federal law, Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000e. The Supreme Court held that employers cannot make a worker's need for religious accommodation "a motivating factor" in an adverse employment action, such as termination. The Court explained that a company must do more than simply follow its religion neutral employment policies – it must make affirmative efforts to provide religious accommodation, even giving the employee who needs accommodation "favored treatment."

The nature of a favorable outcome and support for reasonable accommodation, based on my religious beliefs will assist me greatly. First, this accommodation will allow me to stay true to my religious beliefs personified in "Healthy Living". Secondly, a reasonable accommodation will alleviate my anxiety and pressure that that my inability to take the Covid-19 vaccine could impact me with performing my regular duties as a Child Protection Manager, (CPM), and my ability to work in an environment that offers supports, counseling and resources to families and children.

I am remain optimistic that you will be able to arrange a suitable accommodation regarding my refusal to take the Covid-19 vaccine, based on my biblical beliefs and conviction, while at the same time

Exhibit B

allowing me the right to remain in your employment. My decision to not receiving the Covid-19 vaccination translates into a full respect for you and the best interests of your company.

Thank you in advance for your anticipated cooperation with my request.

Sincerely,

Ms. Tracy Ann Francis-Martin

Exhibit C

**DENIAL OF REASONABLE ACCOMMODATION REQUEST**

To be completed by Deciding Official

1. Name of Individual requesting reasonable accommodation:

Tracyann Francis-Martin

2. Basis for reasonable accommodation request:

- ☐ Disability
- ☒ Religion
- ☐ Status as Victim of Domestic Violence Sex Offenses or Stalking
- ☐ Pregnancy, childbirth or a related medical condition

3. Specific Accommodation Requested:

The employee is requesting to submit weekly proof of PCR testing instead of receiving the vaccine.

4. Request for reasonable accommodation denied because (you may check more than one box).

- ☐ Employee's request determined not to be related to a disability
- ☐ Employee's request determined not to be related to religion
- ☐ Employee determined not to be a victim of domestic violence, sex offenses, or stalking
- ☐ Request determined not to be because of pregnancy, childbirth, or related medical condition
- ☐ Accommodation Would not Meet Requested Need
- ☐ Accommodation Would Cause Undue Hardship
- ☐ Documentation of Need for the Accommodation Inadequate
- ☐ Accommodation Would Require Removal of an Essential Function of the Job
- ☐ Accommodation Would Pose Direct Threat
- ☐ Other (Please specify)

Exhibit C

5.	Reason(s) for the denial of reasonable accommodation:	<p>The employee expresses general anxiety and their personal beliefs concerning matters of fact and less about how the vaccine would violate a sincerely held religious, moral or ethical belief.</p>
6.	If the individual proposed one type of reasonable accommodation, which is being denied, but rejected an offer of a different type of reasonable accommodation, explain both the reasons for denial of the requested accommodation and reason why chosen accommodation would be effective.	
7.	Appeal: If you wish to appeal this decision, you must do so within three (3) business days from receipt of this determination. All appeals must be submitted using the following URL: https://www.nyc.gov/vaxappeal . If you do not have access to a computer, you should immediately contact this office for assistance in filing your request for an appeal. If you are a union member, please also consult with your union to determine if you have a right to appeal this decision through an arbitration.	
Deciding Official Name (print): <u>Siheem Roseborough</u> Telephone: <u>212-341-2519</u> Email: <u>siheem.roseborough@acs.nyc.gov</u>		
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Signature: <u>Siheem Roseborough</u> <small>Digitally signed by Siheem Roseborough DN: cn=Siheem Roseborough, o=ACS, ou=Office of Human Resources, email=siheem.roseborough@acs.nyc.gov, c=US Date: 2021.11.16 12:55:53-0500</small> </div> <div style="width: 45%; text-align: right;"> Date Denied: <u>11/16/2021</u> </div> </div>		
cc: EEO Officer, Deputy EEO Officer, ACS Office of Human Resources		

Exhibit D



Huntington Seventh-day Adventist Church
21 W 9th St, Huntington Station, New York 11746
E-mail: a.neilturner@gmail.com
Phone: 203-543-0931

Date 11/18/2021

TO WHOM IT MAY CONCERN:

Re: HR - Tracy-Ann Francis-Martin

As the pastor of the Huntington SDA Church, I verify, that **Tracy-Ann Francis-Martin** is currently a member in good and regular standing.

**RE: Tracy-Ann Francis-Martin's sincerely held religious, moral and ethical beliefs.
Accommodation for Covid Vaccination/Religious Belief and Practice**

1. **Covid Vaccine violates Tracy-Ann Francis-Martin sincerely held religious, moral and ethical beliefs based on,**
1 Corinthians 6:19 – “What? Know ye not that your body is the temple of the Holy Ghost which is in you, were given from God, and you do not own your body. You are bought with a price, so glorify God in your body and in your spirit which belongs to God.”
1 Corinthians 10:31– “So whether you eat or drink or whatever you do, do it all for the glory of God.”
As a person with sincerely with religious, moral and ethical beliefs and a Seventh Day Adventist, Tracy-Ann Francis-Martin has, a moral and ethical belief in Jesus and the bible. This relationship with Jesus confirms that the health laws given in the bible will guide her life with regards to what goes into or on her body.

Examples of Tracy-Ann Francis-Martin's sincerely held religious, moral and ethical beliefs based on the words of the bible that she should stay away from any food, drink, drugs, alcohol or anything that would destroy her body which is the temple of the living God.

Exhibit D

Leviticus chapter 11 - clean and unclean foods, drink and animals. **Romans 14:21** - "It is good neither to eat flesh, nor to drink wine, nor anything whereby thy brother stumbles or is offended, or is made weak." **Proverbs 20:1** - "Wine is a mocker, strong drink is raging; and whosoever is deceived thereby is not wise." **1 Corinthians 6:9-10**; "Know ye not that the unrighteous shall not inherit the kingdom of God? Be not deceived: neither fornicators, nor idolaters, nor adulterers, nor effeminate, nor abusers of themselves with mankind, nor thieves, nor covetous, nor drunkards, nor revilers, nor extortioners, shall inherit the kingdom of God." **Romans 13:13** - "Let us walk honestly, as in the day; not in rioting (drunken partying) and drunkenness." **Ephesians 5:18** "And be not drunk with wine, wherein is excess; but be filled with the Spirit;"

This religious exemption request is based on **Tracy-Ann Francis-Martin** sincerely held religious, moral and ethical beliefs that her body, according to scripture, as the temple of God and thus, it is her conscientious belief that the vaccine goes against her religious beliefs. Mrs. Francis-Martin cites 1 Corinthians 6:19 as the foundation of this belief. It states: what? Know ye not that your body is the temple of the Holy Ghost which is in you, which ye have of God, and he are not your own." KJV

We also believe in not working on the Saturday, which is the 7th day of the week, from sunset Friday to sunset Saturday evening. **Tracy-Ann Francis-Martin** ascribes to obeying the laws of the land and she ascribes to taking advice from her health care physicians and organizations, but for her **sincerely held religious, moral and ethical beliefs** the final call belongs to **Tracy-Ann Francis-Martin**.

Tracy-Ann Francis-Martin is requesting accommodations concerning employer's vaccination requirement, to not take the Covid Vaccine currently. Rather she will continue with the weekly Covid testing mandate and protocols.

Below are the highlights that qualify **Tracy-Ann Francis-Martin** for the right to her religious convictions according to the laws of the land.

- ✓ Employers have an obligation to accommodate an employee's sincerely held religious belief under Title VII of the Civil Rights Act (Title VII), unless the accommodation creates an undue hardship. A sincerely held religious belief can include an employee's religious-based objection to vaccinations.
- ✓ All employers, including state and local government employers, with 15 or more employees are covered under the ADA and Title VII. Federal government employers are also covered by Title VII; however, for disability accommodations, federal government employers must comply with the Rehabilitation Act of 1973 instead of the ADA, although the protections are similar.
- ✓ Title I of the Americans with Disabilities Act (ADA) requires employers to provide reasonable accommodation to qualified applicants and employees with a disability unless the employer can demonstrate that doing so creates an undue hardship to the employer or poses a direct threat to the safety of the employee or others in the workplace.

Exhibit D

- ✓ In 2015, the Supreme Court clarified the requirements of Federal law, Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000e. The Supreme Court held that employers cannot make a worker's need for religious accommodation "a motivating factor" in an adverse employment action, such as termination. The Court explained that a company must do more than simply follow its religion neutral employment policies – it must make affirmative efforts to provide religious accommodation, even giving the employee who needs accommodation "favored treatment." The Supreme Court explained the law with the following example:

An employer may not make an applicant's religious practice, confirmed or otherwise, a factor in employment decisions. For example, suppose that an employer think (though he does not know for certain) that a job applicant may be an orthodox Jew who will observe the Sabbath, and thus be unable to work on Saturdays. If the applicant requires an accommodation of that religious practice, and the employer's desire to avoid the prospective accommodation is a motivating factor in his decision, the employer violates Title VII. EEOC v. Abercrombie & Fitch, 135 S.Ct. 2028 (2015)

I am confident that you will be able to arrange a suitable accommodation for **Tracy-Ann Francis-Martin** based on her sincerely held religious, moral and ethical beliefs and refusal to take the Covid vaccine, while at the same time allowing her the right to remain in your employment. **Tracy-Ann Francis-Martin** remains committed, loyal and dedicated to being the best employee she can be.

It is because of **Tracy-Ann Francis-Martin** respect for God's authority that leads her to ask kindly for an exemption for receiving the Covid vaccination based on her sincerely held religious, moral and ethical beliefs. **Tracy-Ann Francis-Martin** is requesting that she be allowed to maintain the weekly Covid testing. This would be welcomed and adhered to. **Tracy-Ann Francis-Martin** is committed to full rights and beliefs for all parties involved in this company.

Thank you in advance for your anticipated cooperation with **Tracy-Ann Francis-Martin's** request.

Thank You, and Gods richest blessings to you,



Neil A. Turner, Senior Pastor

Exhibit E

Email received on 12/3 from Human Resource

Francis-Martin, Tracy (ACS) <tracy.francis-martin@acs.nyc.gov>
Fri, Dec 3, 2021 at 9:11 PM

Tracy-Ann Francis-Martin, MSW

• W (718)725-3778 • Cell (917)769-1866

Words of Kindness are as welcome as the smile of Angels.

From: acs.sm.HR.COVIDTest <HR.COVIDTest@acs.nyc.gov>
Sent: Friday, December 3, 2021 5:00 PM
Subject: ! WEEKLY PCR TESTING ! REMINDER & INSTRUCTIONS!
Importance: High

Hello,

Pursuant to the conditions of your request for reasonable accommodation, you are required to submit proof of a negative COVID-19 PCR test result every 7 days. Below are helpful instructions to aid in this process:

- **COVID-19 PCR Tests are required once every 7 days.**
 - You must be tested once every 7 days and submit proof of that test to HR.
 - For example, if you are tested on a Monday, your next test is due the following Monday.
 - Antigen tests are not accepted.

Exhibit E

- **All PCR tests must be submitted to the ACS CovidClear portal**
 - Access Link: <https://nyc-acslabs.mtzb2b.com/request-vaccination-proof>
 - The portal is only accessible from Microsoft Edge, Google Chrome and ACS Mobile Devices.
 - After submitting your test to the portal you will receive an automated message confirming your submission.
 - After your submission is approved, you will receive an automated message indicating approval and will include your next due date.

Additional Information

- **“PENDING” Test Results**
 - You may submit proof of a “PENDING” test result.
 - If the weekly deadline is approaching, you may submit proof of a “PENDING” test result to the portal and continue working until you receive the final test result.
 - Once you receive the final test result, submit the final test result to the portal.
 - Don’t delay! If your deadline is approaching, submit the “PENDING” test result. Then make sure to follow up and submit the corresponding NEGATIVE test result.
 - If you submit multiple back-to-back “PENDING” test results, and fail to submit the corresponding final NEGATIVE test results, you will be placed on leave without pay until the required documentation is received.
- **Excused Absence**
 - Please refer to the attached guide for submitting excused absence for COVID-19 testing in Citytime.
- **Due Dates & Reminders**
 - When your submissions are approved, you will receive a message indicating your next PCR test due date.
 - You will receive two weekly reminders which will indicate your next PCR test due date.
- **LAST CHANCE Reminder**
 - When your weekly deadline is approaching, you will receive a “LAST CHANCE” reminder message indicating that your weekly PCR test must be submitted by the end of the day.
 - If you fail to submit the required documentation by the deadline, you will be placed on leave without for the following day and until the required documents are received and approved by HR.
- **Multiple Consecutive Pending Test Results**

Exhibit E

- If you submit multiple back-to-back “PENDING” test results, and fail to submit the corresponding final NEGATIVE test results, you will receive a warning message alerting you of this.
- If you fail to submit the required documentation by the deadline, you will be placed on leave without for the following day and until the required documents are received and approved by HR.
- **Leave Without Pay**
 - Pursuant to the conditions of your request for reasonable accommodation, if you fail to provide the required documentation by the established deadlines, then you will be placed on Leave Without Pay until the required documentation is received and approved by HR.
 - Please make sure to carefully review your documents and be mindful of the messages and alerts sent to you by HR in order to avoid instances of leave without pay.

Thank you,

ACS Office of Human Resources

For general HR inquiries please email - ask.hr@acs.nyc.gov



Submitting Excused Absence in CityTime for PCR Testing Requirement

12/01/2021

What is the testing requirement?

In accordance with Citywide requirements, employees who have not submitted proof of COVID-19 vaccination are required to submit proof of a negative COVID-19 PCR test every 7 days.

Where am I supposed to submit the test?

Employees are required to submit their PCR test results to OHR using the ACS CovidClear Portal:

<https://nyc-acslabs.mtzb2b.com/request-vaccination-proof>

What type of tests are accepted?

Only polymerase chain reaction (PCR) tests processed by medical professionals are accepted. These tests usually take 1-3 days to process at a lab, but some PCR tests are rapid tests. Both rapid and non-rapid PCR tests can be used. At-home tests and antigen tests will not be accepted.

Do I have to get tested on my own time?

Employees may get tested during non-work hours and submit their test results to OHR.

Employees may get tested during work hours under the following conditions

- Employees must coordinate with their supervisor in advance if they are going to get tested during work hours. Testing time should be scheduled so that it does not have any detrimental impact on operations.
- Subject to supervisor approval, employees must coordinate a time to get tested at the beginning or end of their shift.
- Employees will be required to document time taken to seek testing and are required to seek the fastest option available.
- If testing is offered at an employee's ACS work location, they may not use work hours to be tested off-site.

What happens if I don't get my PCR test results right away?

Employees who are awaiting their PCR test results should submit documentation from the lab or testing site indicating the date and time the test was collected and the type of test that was collected.

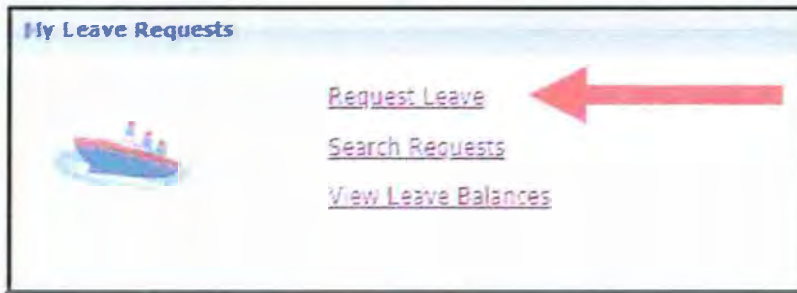
Once the final PCR test results are received, employees should submit the final PCR test result to the portal.

How do I record time for testing in CityTime?

Follow the instructions on the next page for requesting Excused Absence for testing in CityTime.

Employees who get tested during work hours will need to provide documentation to their supervisor indicating the date, time and location where the test was taken. A copy must also be provided to your Timekeeper.

Exhibit E

Step 1: Navigate to "Request Leave" in CityTime**Step 2: Enter Leave Details**

- Leave Date
- Start Time, End Time
- Leave Type = Excused Absence
- Reason = Required by MPO/ Policy / Law

Step 3: Review and Submit

- Click Preview
- Review Leave Request details
- Click Submit

Leave Type	Reason	Duration
EXCUSED ABSENCE	Required by MPO...	

Exhibit F

Exhibit F—Email communication reshared regarding reasonable accommodation denial and request to submit to vaccine mandate.

Good morning TRACYANN FRANCIS-MARTIN

Per DOHMH Commissioner's Order to Require COVID-19 Vaccination for City Employees and Certain City Contractors (<https://www1.nyc.gov/assets/doh/downloads/pdf/covid/covid-19-vaccination-requirement-city-employees.pdf>) , the New York City Vaccine Mandate requires that all City employees must provide verification that they are vaccinated against COVID-19 by October 29, 2021. Our records indicate that you are not in compliance with the vaccine mandate and was placed on LWOP on 01/03/22. This may result in your termination from the agency.

If you wish to return to work in full pay status, please submit proof of vaccination to <https://nyc-acslabs.mtzb2b.com/request-vaccination-proof> .

Thank you

Sheree Reid, LMSW | Employment Services Deputy Director
The Office of Human Resources
Phone: 212-341-2504 | 646-988-7384

Fax: 917-551-7237

Email: ADMIN.EmploymentServices@acs.nyc.gov

Sheree.Reid@ACS.NYC.GOV

General HR inquiries: email ask.hr@acs.nyc.gov

Exhibit G—

Tracy Martin <my2boyz99@yahoo.com>

To: siheem.roseborough@acs.nyc.gov, Acs. Sm. Ask. EEO

Cc: Tracy Martin

Tue Jan 18 at 12:39 PM

Good day Mr. Roseborough,

First let me say thank you for speaking with me on 1/12/22 to discuss my denial for my Religious reasonable accommodation regarding exemption from the COVID-19 vaccine. During this conversation we discussed the discrepancy in the original email shared with me on or around 12/3/21, which supported my Religious reasonable accommodation request for exemption from the COVID-19 vaccine mandate, which gave me the option of submitting to weekly COVID-19 PCR test, versus the letter shared on 12/29/21, that informed me that I would be placed on Leave Without Pay (LWOP) as of 1/3/21 for noncompliance with COVID-19 vaccine mandate.

Subsequent to these letters distributed to my attention, the Supreme Court's ruling on 1/13/22, has afforded new options as it relates to the mandatory COVID-19 vaccine mandates. Under this action, the Occupational Safety & Health Administration's (OSHA) ruling was safeguarded. According to OSHA, "**business with 100 or more employees, get vaccinated or submit a negative COVID-19 test weekly to enter the workplace.**"

As I review this document and the ruling by the Supreme Court, I am paying close attention to the use of the conjunction **OR**, as this supports that based on the number of employees within Children Services, I can be granted a Religious reasonable Accommodation to submit to weekly PCR COVID-19 testing.

As a Child Protection Manager,(CPM), and dedicated employee with the Division of Child Protection for 25+ years, I am kindly requesting for my Religious request for reasonable accommodation to NOT take the COVID-19 vaccine, be re-instated. I remain committed to weekly COVID-19 PCR testing, accommodation, based on accommodation granted 12/3/21. I remain committed to the masking compliance, as well as using precautions to support a healthy work space environment.

Mr. Roseborough, I remain hopeful that you will re-assess my request, and grant me favor in re-instating my Religious Reasonable Accommodation.

Looking forward to hearing from you.

Best,
TFM

Exhibit H

From: ACS Office of Human Resources <hr.vaccinevalidation@acs.nyc.gov>
To: ACS Office of Human Resources <hr.vaccinevalidation@acs.nyc.gov>
Sent: Monday, January 31, 2022, 05:14:46 PM EST
Subject: VACCINE MANDATE COMPLIANCE

Good afternoon,

Pursuant to DOHMH's Commissioner Order, all city employees were required to submit proof of at least one dose of a two-dose Covid-19 vaccination by October 29, 2021. Our records indicate that you are currently out of compliance with this order.

You must submit proof of at least one dose of a two-dose Covid-19 vaccine to the [ACS COVIDCLEAR](#) portal by February 11, 2022 or you will be terminated.

To submit your proof of vaccination, please access the [ACS CovidClear](#) portal using the following link: <https://nyc-acslabs.mtzb2b.com/request-vaccination-proof> . **PLEASE NOTE** that this link is only accessible through Microsoft Edge and Google Chrome.

Getting vaccinated has never been easier. Find a site near you at <https://vaccinefinder.nyc.gov/>

For additional questions, please email hr.VaccineValidation@acs.nyc.gov.

Office of Human Resources

150 William Street 16th Flr

NY, NY 10038

**AFFIDAVIT
M. HARRINGTON**

EXHIBIT #11

STATE OF NEW YORK)
) ss.
COUNTY OF KING)

M. HARRINGTON, being first duly sworn on oath, deposes and declares as follows:

1. I am above the age of 18, and I am competent to make this affidavit.
1. I have worked as a Supervisor Highway Repairer with the Roadway Repair & Maintenance division of the Department of Transportation (DOT) for 34 years.
2. On 10-20-21, the Commissioner of Health and Mental Hygiene enforced an order requiring all city employees to be vaccinated or submit a request for a religious or medical exemption. Any city worker who was not in compliance with taking the vaccine or being approved of a religious or medical exemption would be placed on unpaid leave. Please see **Exhibit A-10-20-2022 -DOH Covid-19-vaccination-requirement-city-employees - Notice to M. Harrington.**
3. On 10-25-21- Benjamin Graham who is the Officer of EEO and Diversity & inclusion wanted to know the status of my exemption application. He said that my application is due back on 10/27/21. This was upsetting to me because I was not informed that the applications were available since 10/22/21 and Mr. Graham said that extensions were not given and I will have to submit my application with the short notice.
4. I was given only two (2) days to submit my application.
5. On 10-27-21, I submitted my religious exemption with supporting documents. I called the EEDC to make sure that my religious exemption and supporting documents were received. The phone representative confirmed receiving my submission.
6. On 11-9-21, I received a call from a representative from EDI questioning me about my religious beliefs. I was asked uncomfortable questions like: why I do not want to get vaccinated? What holidays do I celebrate? Do I take any over the counter medications?

These questions made me very nervous. I was very uncomfortable answering these very personal questions. However, I informed the caller that "I will not put anything unnatural in my body. I would never take a flu vaccine. As a child, I am not aware of what happened to me and I wasn't responsible about the affairs my parents made about decisions on vaccines. I had to respect my parents' decisions made for me as a child. However, as an adult, I choose not to take any vaccines. Please see **Exhibit B- 11-18-2021 - Reply to Denial** by M. Harrington for more details.

7. On 11-15-21, my Religious Exemption request was denied. EDI determined that my request was not "based upon a sincerely held religious belief, but rather upon personal preferences." Please see attached **Exhibit C-11.15.2021-Denial of Accommodation** M. Hemming-Harrington.
8. I was only given three (3) days to appeal the denied exemption.
9. On 11-18-21, I submitted my appeal seeking a reasonable accommodation based on my sincere religious beliefs. Based on my religious beliefs, my body is a temple of divine accord, and I must protect my auto-immune condition which is currently healthy. I regularly limit what I choose to put into and on my body. I am conscientious of the food, beverages, soaps and authorized and unauthorized medications and prescriptions I take orally or by injection into my body. Please refer to **Exhibit B-11-18-2021 - Reply to Denial** by M. Harrington
10. On 1-4-22, I received an email from the Deputy EEO Officer Ben Graham stating, "the City of New York Reasonable Accommodation Appeals Panel has decided to deny [my] appeal." Please see **Exhibit D-1-4-2022 Denial of Accommodation - M. Harrington**
11. I was given only three (3) business days to appeal this decision.
12. On 1-31-22, I received an email from DOT's Deputy Commissioner Janice Stroughter stating, "Please submit proof of your first dose of a two-dose vaccination or proof of one dose of the J&J vaccine immediately and no later than February 11, 2022, or else your

employment with the City will be terminated effective February 11, 2022." **Exhibit E-1-31-2022 - LWOP Notice - M. Harrington.**

13. No one from the Department of Transportation discussed with me any rights I had under OSHA to receive equipment or risk mitigation controls that would shield me from Covid-19 in the workplace. I just recently learned that the DOT was to provide me with OSHA pandemic safety training so I could continue to work.
14. I have been terminated and I have filed a complaint with the EEOC and I am waiting for a right to sue.
15. This religious exemption process has negatively impacted my life. I am seeking council and therapy treatments as result of being stressed out due to my religious/spiritual beliefs about vaccines. I am stressed out and the on ongoing threat of being intimidated to take the vaccine is restricting my freedom to work and perform my job duties that I have been doing for 34 years.

I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct.

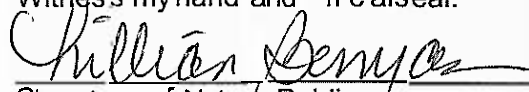
Dated this 14 day of April 2022.


M. HARRINGTON

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

Subscribed and sworn to (or affirmed) before me on this 14 day of April, 2022, 2021, by M. HARRINGTON, proved to me on the basis of satisfactory evidence (which displays the full name) of the person(s) who appeared before me who has provided identification that displays a full first and last name.

Witness my hand and official seal.


Signature of Notary Public

[Affix Notary Seal]

LILLIAN BOWMAN
Notary Public- State of New York
NO. 01804977472
Qualified in Kings County
My Commission Expires Feb 4, 2023

**AFFIDAVIT OF B. REID
RELIGIOUS EXEMPTION**

EXHIBIT #12

STATE OF NEW YORK)
) ss.
COUNTY OF QUEENS)

B. REID, being first duly sworn on oath, deposes and declares as follows:

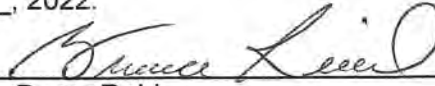
1. I am above the age of 18 and am competent to make this affidavit.
2. I was a Sanitation Worker, Ref #0594359, Q-7a serving as a Street Sweeper for the Department of Sanitation ("Department") since August 16, 2004. My responsibilities included Mechanical Broom Operations to keep garbage off the streets of New York.
3. I operated the Mechanical Broom equipment alone and I have no contact with the public or any other Sanitation workers during my assigned work shifts.
4. On September 11, 2021, I was notified by the Department that I would need to provide weekly COVID-19 PCR tests starting on September 13, 2021, if I chose to not take the COVID-19 vaccination. See **Exhibit A**
5. Since August 2004 until now, I have been approved for religious work schedule accommodations to allow me to observe the weekly Seventh Day Sabbath according to the Fourth Commandment of the Ten Commandments of the Bible. I have over 36 religious accommodation requests for the last 17 years in my personnel file and I have never worked for the Department on the Sabbath in 17 years.
6. Never have I been denied a religious work schedule accommodation since I started my job in 2004.
7. I complied with this order and began submitting weekly testing on September 13, 2021 and continued doing so each following week as required until the date I was placed on Leave Without Pay status.
8. On October 22, 2021, I was then notified by the Department that they would require all employees to receive the COVID19 vaccine by October 30, 2021 or be placed on Leave without Pay status beginning on November 1st 2021. See **Exhibit B**
9. The Vaccine Mandate notice stated that employees may request accommodations for medical or religious exemptions that would have to be submitted to RAExemptions@dsny.nyc.gov by October 27th, 2021.

10. I submitted my request for religious exemption on October 25th 2021, as required by the Department (DSNY). See **Exhibit C**
11. I continued to submit weekly COVID19 PCR tests as was required.
12. On October 28, 2021, I received an email from the DSNY Office of Equity, Diversity and Inclusion notifying me that my exemption request was under review. See **Exhibit D**
13. On November 5, 2021, I received another email from a Dan Hagevick with DSNY, asking for additional information regarding my religious exemption submission. See **Exhibit E**
14. On November 18, 2021, I received an email from DSNY stating they denied my request for religious exemption accommodations. The email included a letter that gave instructions for filing an appeal to the denial, which had to be submitted by November 23, 2021. See **Exhibit F**
15. On November 23, 2021 I submitted my appeal for religious exemption as was required. See **Exhibit G**
16. On November 27, 2021, DSNY issued a notice stating that those who took the vaccine would receive compensation for taking time off to take the vaccine as an incentive and they would receive an additional payment \$500 as a one time incentive to take the vaccine. See **Exhibit H**
17. On January 19, 2022, I received an email from the Department stating my appeal was denied, and that I would be placed on Leave without Pay Status on January 25, 2022, if proof of COVID-19 vaccination was not submitted by January 24, 2022.
18. At no time did anyone from the Department of Sanitation meet and confer with me to discuss any and all possible accommodations or workplace safety mitigation controls. Nor was I trained in OSHA safety standards for COVID mitigation or provided OSHA/NIOSH approved safety equipment such as a powered air respirator (PAPR MASK) that I specifically requested. There was never any dialogue about the nature of my job to determine if I needed an exemption and accommodation or additional safety equipment due to the Covid-19 Pandemic based on my job description and my unvaccinated status due to my religious beliefs.
19. On February 1st, 2022, I was sent a letter from the Department stating that I would be terminated on February 11, 2022 for failure to complete vaccination as a condition of my employment.

20. I did not complete the vaccination by February 11, 2022.
21. There has never been any determination by the Union or the Courts that the vaccination was a "condition of my employment". When I started my job there was never any pre-employment notice to me that upon acceptance of the job that I agreed to receive any vaccinations as a condition of my acceptance of employment.
22. Also, under New York City law, I can only be terminated for cause of a disciplinary infraction having to do with the essential functions of my job, or if I was convicted of a crime or mortal turpitude. I have never been served a disciplinary charge by the DSNYC.
23. Nevertheless, my employer NYC Department of Sanitation strong armed my Union and told them they had to enter into an agreement regarding the vaccine that would require all Union members to be vaccinated or get an exemption.
24. Under information and belief, it is my understanding that the NY City went to all the Unions misrepresenting to the unions that because the Pandemic is a "public safety and health" crisis that they had to agree to their vaccine mandate terms.
25. I was told by the Union that they entered into an MOU with NY City so that they would protect Union members religious exemptions because the MOU included provisions for providing the exemptions.
26. Instead of granting exemptions to workers like me who has had a religious exemption for my Sabbath observance, NY City was denying requests for exemptions and claiming that the MOU was a term of employment that workers must submit to.
27. When the Union learned of how the NY City was not giving exemptions as was to be permitted under the MOU, my union recanted the MOU and called out NY City for its failures.
28. The unexpected decision to terminate me is unfair and discriminatory especially when others in the Department have also been granted exemptions and accommodations and I have not.
29. The termination letter is my final determination that I have exhausted my administrative remedies.
30. I have filed an EEOC complaint and requested a right to sue, but because of the major backlog, I have not received my right to sue letter yet.
31. This termination has resulted in a loss of my family health benefits. I am the primary provider for my family. I must retain health benefits due to the health needs of my wife and children.

I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct.

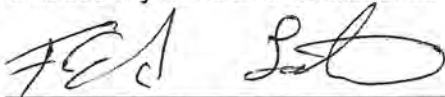
Dated this 14 day of APRIL, 2022.


Bruce Reid

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

Subscribed and sworn to (or affirmed) before me on this 14 day of Apr., 2022, by B. Reid, who provided to me on the basis of satisfactory evidence to be the person(s) who appeared before me is the person who provide identification of their full first and last name.

Witness my hand and official seal.



[Affix Notary Seal]

Signature of Notary Public


Faramarz Fred Latai
FARAMARZ FRED LATAI
Notary Public, State of New York
01LA5084018
Qualified in Nassau County
Commission Expires 1/1/25

APR 14 / 2022

DSOA, QN07ANNEX (DSNY)

From: Anderson, Gregory (DSNY)
Sent: Friday, September 10, 2021 1:29 PM
Subject: COVID-Safe Requirements: Starting Monday, September 13
Attachments: PAP 21-02.pdf

Dear colleagues -

In accordance with the City's COVID-Safe requirement, every Department employee must either provide a one-time verification that they are fully vaccinated OR provide a weekly record of a negative PCR test beginning Monday, September 13.

Vaccination

Employees who have already provided proof of vaccination do not need to take any further action. Employees who have not yet provided proof of vaccination to Human Resources or the Medical Division should do so using the vaccine portal below.

COVID-Safe Vaccination Submission

<https://www1.nyc.gov/assets/dsny/site/contact/covid-19-vaccine-registration>

If you have not yet received your COVID-19 vaccine, the Department strongly encourages you to do so. Nothing can provide a higher level of protection against COVID-19 or do more to speed the City's recovery than vaccines, which are safe and lifesaving. Convenient and community-based vaccination sites can be found via nyc.gov/vaccinefinder or by calling 877-VAX-4-NYC.

If you have any questions about the vaccine or how to schedule an appointment, call the DSNY COVID-19 Hotline at 212-437-4655 (0500-2200 Mon-Sun). They will help you find a vaccination site and schedule an appointment.

Weekly Testing

Employees who choose not to provide proof of vaccination must provide weekly COVID PCR test results. Department employees may submit proof of weekly negative COVID-19 test results to Human Resources and the Medical Division through the online DSNY COVID-SAFE testing form below. Field employees or those without regular access to a computer may choose to email or hand in their test information to their timekeeper or supervisor for the limited purpose of having the timekeeper or supervisor submit the test information on their behalf. All employee test results will be treated confidentially.

COVID-Safe Weekly Testing Submission

<https://www1.nyc.gov/assets/dsny/site/contact/covid-19-weekly-test-registration>

Only PCR tests processed by medical professionals qualify for the City's COVID-Safe Requirement. These tests usually take one-two days to process at a lab, but some PCR tests are rapid tests. Both rapid and non-rapid PCR tests can be used. Antigen tests and at-home tests do not qualify for this requirement.

The City of New York offers free COVID-19 testing in convenient locations across the five boroughs and will continue to do so. An updated list of City-sponsored test sites is available at <https://www.nychealthandhospitals.org/test-and-trace/testing/>. Private providers may charge for testing or charge a co-pay. Employees are strongly encouraged to ask about associated costs before being tested. Most providers across the City will attempt to bill insurance for test collection. A full list of public and private PCR testing sites, visit: nyc.gov/covidtest.

Failure to comply

Employees who fail to comply with these requirements will be placed in Leave Without Pay status until they are in compliance. Employees who fail to comply may also face disciplinary action.

For more information on the Department's policies implementing the City's COVID-Safe Requirement, see PAP 2021-02, attached.

Best regards,
 Greg Anderson

GREGORY ANDERSON

Chief of Staff and
 Deputy Commissioner for Policy and External Affairs

NYC Department of Sanitation
gpanderson@dsny.nyc.gov



**THE CITY OF NEW YORK
DEPARTMENT OF SANITATION
POLICY AND ADMINISTRATIVE PROCEDURE
2021-02**



EFFECTIVE DATE: September 13, 2021
SUBJECT: COVID-SAFE POLICY
AFFECTED DIRECTIVES: N/A
REFERENCE: Executive Order 78 of 2021 (dated August 31, 2021)

INTRODUCTION

Pursuant to Executive Order 78, issued by Mayor Bill de Blasio on August 31, 2021, all Department employees are required to provide one-time proof of COVID-19 vaccination or proof of a weekly negative COVID-19 PCR test beginning on September 13, 2021.

These provisions describe the procedures for providing proof of vaccination or weekly negative tests, and they permit employees to take paid excused leave for a sufficient period of time, not to exceed three (3) hours per week, to receive a COVID-19 PCR test.

Department employees who fail to comply with the requirements of this Policy and Procedure (PAP) will be placed in Leave Without Pay (LWOP) status.

DEFINITIONS

Department employee: Any employees of the New York City Department of Sanitation, regardless of title, including part-time and seasonal employees.

Excused leave: A paid leave of absence to include travel time to and from a testing or vaccination location.

Qualifying test: A polymerase chain reaction (PCR) test processed by medical professionals, including rapid PCR tests. Antigen tests and at-home tests do not qualify for this requirement.

GENERAL PROVISIONS

1. All Department employees must provide proof of COVID-19 vaccination or proof of weekly negative COVID-19 PCR test.
2. Proof of COVID-19 vaccination includes: an official CDC card or other official immunization card bearing the employee's name and date(s) of vaccination or a photograph of such card; an Excelsior Pass issued by the State of New York; or the NYC COVID SAFE app that clearly displays an image of the CDC card or other official immunization card with the above noted requirement.
3. Proof of negative COVID-19 PCR test must be submitted weekly via the online portal or to an employee's timekeeper or supervisor. Only qualifying tests may be used for this purpose.

4. Department employees are eligible for up to three (3) hours per week of excused leave for the purposes of receiving a weekly COVID-19 PCR test. Excused leave must be taken at the end of the shift and will be provided only at the discretion of a supervisor. If an employee requires more than three (3) hours to undergo testing, no additional excused leave will be provided, and the employee will not be compensated for the additional time.

5. Department employees who fail to comply with the requirements of this PAP will be placed in Leave Without Pay status until they comply. Employees who fail to comply may be subject to disciplinary action.

PROCEDURES

All Department employees must provide proof of COVID-19 vaccination or proof of weekly negative COVID-19 PCR test.

COVID-19 Vaccination

Department employees may submit proof of COVID-19 vaccination to Human Resources and the Medical Division through the online DSNY COVID Vaccine portal. Field employees or those without regular access to a computer may choose to email or hand in their proof of vaccination to their timekeeper or supervisor for the limited purpose of having the timekeeper or supervisor submit the proof on their behalf. All employee vaccination documentation will be treated confidentially.

Proof of COVID-19 vaccination includes an official CDC card or other official immunization card bearing the employee's name and date(s) of vaccination or a photograph of such card; an Excelsior Pass issued by the State of New York; or the NYC COVID SAFE app that clearly displays an image of the CDC card or other official immunization card with the above noted requirement.

Department employees who have previously provided proof of vaccination to Human Resources or the Medical Division do not need to resubmit proof of vaccination.

Weekly COVID-19 Testing

Department employees may submit proof of weekly negative COVID-19 test results to Human Resources and the Medical Division through the online DSNY COVID-SAFE portal. Only qualifying polymerase chain reaction (PCR) tests may be used for this purpose. Field employees or those without regular access to a computer may choose to email or hand in their test information to their timekeeper or supervisor for the limited purpose of having the timekeeper or supervisor submit the test information on their behalf. All employee test results will be treated confidentially.

Employees who test positive for COVID-19 should contact the Health Care Facility via the COVID-19 Hotline at (212) 437-4655.

For the purposes of this policy, weekly testing means that a Department employee is required to submit the result of a test taken once every seven calendar days. An employee who has been tested within the preceding seven days, but is still waiting for the result may report to work with a pending test result as long as they meet the criteria of the health screening, and provided that the test result is submitted to Human Resources and the Medical Division as soon as it becomes available.

Tests are widely available *at no cost* to individuals across dozens of City-sponsored test sites. A list of City-sponsored test sites is attached to this PAP (updated as of September 9, 2021), and an updated list is available at <https://www.nychealthandhospitals.org/covid-19-testing-sites/>. Private providers *may charge for testing or charge a co-pay*. Employees are strongly encouraged to ask about associated costs before being tested. Most providers across the City will attempt to bill insurance for test collection.

Department employees are eligible for up to three (3) hours per week of excused leave for the purposes of receiving a weekly COVID-19 PCR test. Where feasible, an employee should contact their supervisor at least two (2) days in advance of testing to schedule excused leave. If an employee requires more than three (3)

hours to undergo testing, no additional excused leave will be provided, and the employee will not be compensated for the additional time. To qualify for excused leave, the date of the qualifying test must be the same as the date the employee requests excused leave.

Employee vaccination and testing information must be kept private and secure and may only be shared with designated agency staff and City officials.

Failure to Comply

Employees who fail to comply with this policy will be placed in Leave Without Pay (LWOP) status until they provide either proof of COVID-19 vaccination or proof of weekly COVID-19 PCR test result. Employees who fail to comply with this policy may also be subject to disciplinary action.

ISSUING AUTHORITY:

A handwritten signature in black ink, appearing to read "Edward R. Grayson", is written over a light gray rectangular background.

**Edward Grayson,
Commissioner**

DISTRIBUTION:

All Management Personnel
This Order must be kept posted at all Department locations until cancelled.

ATTACHMENTS:

List of City-run COVID-19 testing sites (as of September 9, 2021)



**THE CITY OF NEW YORK
DEPARTMENT OF SANITATION
POLICY AND ADMINISTRATIVE PROCEDURE
2021-03**



EFFECTIVE DATE: October 28, 2021

SUBJECT: **COVID-19 VACCINATION REQUIREMENT**

AFFECTED DIRECTIVES: PAP 2021-02 is rescinded.

REFERENCE: Order of the Commissioner of Health and Mental Hygiene dated October 20, 2021.

INTRODUCTION

An Order of the Commissioner of Health and Mental Hygiene issued on October 20, 2021 (the "Health Order") requires that all City employees, including all employees of the Department of Sanitation, provide proof that they have been vaccinated against COVID-19.

All Department employees must provide proof of vaccination no later than 2:00 p.m. on Saturday, October 30, 2021, or they will be placed in Leave Without Pay (LWOP) status beginning November 1, 2021. Employees may resume working in pay status immediately after providing proof of vaccination.

Employees who submitted a request for accommodation from the vaccination requirement on or before October 27, 2021 may continue to work while that request is pending, provided that they continue to submit proof of a weekly negative COVID-19 PCR test result. Employees who fail to do so will be placed in Leave Without Pay status. Employees who submit a request for accommodation on or after October 28, 2021 will be placed in Leave Without Pay status while their request is pending.

These provisions describe the procedures for providing proof of vaccination or, for employees with approved accommodations or pending requests for accommodation submitted prior to or on October 27, 2021, weekly negative tests.

DEFINITIONS

Department employee: Any employees of the New York City Department of Sanitation, regardless of title, including part-time and seasonal employees.

Excused leave: A paid leave of absence to include travel time to and from a testing or vaccination location.

Proof of Vaccination: Proof that an employee has:

1. been fully vaccinated against COVID-19;
2. received a single-dose COVID-19 vaccine, even if two weeks have not passed since they received the vaccine; or
3. received the first dose of a two-dose COVID-19 vaccine, provided that any employee who

received only the first dose of a two-dose vaccination at the time they initially provided proof shall provide proof of a second dose within 45 days after receipt of the first dose.

Qualifying test: A polymerase chain reaction (PCR) test processed by medical professionals, including rapid PCR tests. Antigen tests and at-home tests do not qualify for this requirement.

GENERAL PROVISIONS

1. All Department employees must provide proof of COVID-19 vaccination.
2. Employees must provide proof of COVID-19 vaccination no later than 2:00 p.m. on Saturday, October 30, 2021, or they will be placed in Leave Without Pay status beginning November 1, 2021.
3. Employees placed in LWOP status for failure to comply with this requirement may resume working in pay status immediately after providing proof of vaccination. Employees who fail to provide proof of a second dose, where required, within 45 days after receipt of the first dose will be placed in LWOP status.
4. Acceptable proof of COVID-19 vaccination includes: an official CDC card or other official immunization card bearing the employee's name and date(s) of vaccination or a photograph of such card; an Excelsior Pass issued by the State of New York; or the NYC COVID SAFE app that clearly displays an image of the CDC card or other official immunization card with the above noted requirement.
5. All Department employees are covered by this requirement. Employees on long-term sick or medical leave, Lodi, scheduled vacation, or with a reasonable accommodation allowing full-time telework as of November 1, 2021 must comply with this requirement when they resume to in-person work. Employees on short-term sick leave, as determined by the Medical Division, are subject to this requirement and will be placed in LWOP status beginning November 1, 2021 if they fail to provide proof of vaccination.
6. Employees who have approved accommodations exempting them from the vaccination requirement must submit proof of a weekly negative COVID-19 PCR test result. Such proof must be submitted weekly via the online portal or to an employee's timekeeper or supervisor. Only qualifying tests may be used for this purpose. Employees who fail to submit proof of a weekly negative COVID-19 PCR test result will be placed in LWOP status until they comply with this requirement.
7. Employees who submitted a request for accommodation on or before October 27, 2021 may continue to work while that request is pending, provided that they submit proof of a weekly negative COVID-19 PCR test result. Such proof be submitted weekly via the online portal or to an employee's timekeeper or supervisor. Only qualifying tests may be used for this purpose. Employees who fail to submit proof of a weekly negative COVID-19 PCR test result will be placed in LWOP status until they comply with this requirement.
8. Employees who submitted a request for accommodation on or after October 28, 2021 will be placed in LWOP status while that request is pending.
9. Department employees who fail to comply with the requirements of this PAP will be placed in Leave Without Pay status until they comply. Employees who fail to comply may be subject to disciplinary action.

PROCEDURES

All Department employees must provide proof of COVID-19 vaccination.

COVID-19 Vaccination

Department employees may submit proof of COVID-19 vaccination to Human Resources and the Medical Division through the online DSNY COVID Vaccine portal. Field employees or those without regular access to a computer may choose to email or hand in their proof of vaccination to their timekeeper or supervisor for the

limited purpose of having the timekeeper or supervisor submit the proof on their behalf. All employee vaccination documentation will be treated confidentially.

Proof of COVID-19 vaccination includes an official CDC card or other official immunization card bearing the employee's name and date(s) of vaccination or a photograph of such card; an Excelsior Pass issued by the State of New York; or the NYC COVID SAFE app that clearly displays an image of the CDC card or other official immunization card with the above noted requirement.

Department employees who have previously provided proof of vaccination to Human Resources or the Medical Division do not need to resubmit proof of vaccination.

All Department employees are covered by this requirement. Employees on long-term sick or medical leave, LODI, scheduled vacation, or with a reasonable accommodation allowing full-time telework as of November 1, 2021, must comply with this requirement when they resume in-person work. Employees on short-term sick leave, as determined by the Medical Division, are subject to this requirement and will be placed in LWOP status beginning November 1, 2021 if they fail to provide proof of vaccination.

Employees placed in LWOP status for failure to comply with this requirement may resume working in pay status immediately after providing proof of vaccination.

Exemption from the Vaccination Requirement

Medical or religious accommodations will only be granted in limited circumstances. Requests for accommodation must be made in writing to the DSNY Office of Equity, Diversity and Inclusion. The only allowable accommodation from vaccination is submission of proof of a weekly negative COVID-19 PCR test result.

All Department employees are covered by this requirement unless they have a medical or religious accommodation approved by the Department. Employees with a pending request for a medical or religious accommodation submitted on or before October 27, 2021 may continue to work in pay status while their request is pending. All employees with approved accommodations or qualifying pending accommodation requests as described in this paragraph must submit proof of a weekly negative COVID-19 PCR test result as described below, or they will be placed in LWOP status.

Employees whose request for accommodation are denied must provide proof of vaccination within three (3) business days. Employees who fail to provide proof of vaccination within three (3) business days will be placed in LWOP status.

Employees who submit requests for accommodation on or after October 28, 2021 will be placed in LWOP status while their request is pending review.

Weekly COVID-19 Testing

Department employees who are exempt from the vaccination requirement as described above must submit proof of a weekly negative COVID-19 PCR test result. Only qualifying polymerase chain reaction (PCR) tests may be used for this purpose. Tests can be submitted to Human Resources and the Medical Division through the online COVID-Safe portal. Field employees or those without regular access to a computer may choose to email or hand in their test information to their timekeeper or supervisor for the limited purpose of having the timekeeper or supervisor submit the test information on their behalf. All employee test results will be treated confidentially.

Employees who test positive for COVID-19 should contact the Health Care Facility via the COVID-19 Hotline at (212) 437-4655.

For the purposes of this policy, weekly testing means that a Department employee is required to submit the result of a test taken once every seven calendar days. An employee who has been tested within the preceding

seven days, but is still waiting for the result may report to work with a pending test result as long as they meet the criteria of the health screening, and provided that the test result is submitted to Human Resources and the Medical Division as soon as it becomes available.

The Department may provide on-site weekly COVID-19 testing at Department locations. During any period when such on-site testing is provided, employees are not eligible to excused leave for testing. The Department will allow employees to utilize on-site testing during City time and will make accommodations to allow employees to utilize such on-site testing, consistent with operational need. Employees who chose not to utilize on-site testing may seek weekly COVID-19 tests elsewhere; however, these employees must continue to submit proof of a weekly negative COVID-19 PCR test result as described above.

In the event that the Department does not provide or ceases to provide on-site testing at Department locations, employees who are exempt from the vaccination requirement will be eligible for up to three (3) hours per week of excused leave for the purposes of receiving a weekly COVID-19 PCR test. Excused leave may only be used during an employee's regularly-scheduled work shift. Where feasible, an employee should contact their supervisor at least two (2) days in advance of testing to schedule excused leave. If an employee requires more than three (3) hours to undergo testing, no additional excused leave will be provided, and the employee will not be compensated for the additional time. To qualify for excused leave, the date of the qualifying test must be the same as the date the employee requests excused leave.

Employee vaccination and testing information must be kept private and secure and may only be shared with designated agency staff and City officials.

Failure to Comply

Employees who fail to comply with this policy will be placed in Leave Without Pay (LWOP) status until they provide either proof of COVID-19 vaccination or proof of weekly COVID-19 PCR test result. Employees who fail to comply with this policy may also be subject to disciplinary action.

ISSUING AUTHORITY:



**Edward Grayson,
Commissioner**

DISTRIBUTION:

All Management Personnel
This Order must be kept posted at all Department locations until cancelled.

Fw: COVID-19 Vaccination Requirement

American Auto Classics <infocloud@yahoo.com>

Tue 12/21/2021 1:30 PM

To: WOC4EqualJustice <jo@woc4equaljustice.org>

----- Forwarded Message -----

From: Garage, Queens07A (DSNY) <qn07asuper@dsny.nyc.gov>

To: infocloud@yahoo.com <infocloud@yahoo.com>

Sent: Tuesday, December 21, 2021, 12:53:04 PM EST

Subject: FW: COVID-19 Vaccination Requirement

Supervisor Guardino Q7A

718-746-2484

From: Garage, Queens07A (DSNY) <qn07Asuper@dsny.nyc.gov>

Sent: Friday, December 3, 2021 6:33 AM

To: Garage, Queens07A (DSNY) <qn07Asuper@dsny.nyc.gov>

Subject: Fw: COVID-19 Vaccination Requirement

From: Grayson, Edward (DSNY) <egrayson@dsny.nyc.gov>

Sent: Friday, November 5, 2021 14:09

Subject: RE: COVID-19 Vaccination Requirement

Dear colleagues,

All City employees must receive their COVID-19 vaccination. This is the policy for all NYC public servants. This requirement is codified in a [DOHMH Commissioner's Order](#).

Employees who did not comply with this requirement were placed in Leave without Pay status beginning today, Monday, November 1, 2021.

86 % of the Department has been vaccinated. We've had over 300 members of the Department get vaccinated in the last 5 days. The number of employees complying with the mandate grows daily.

Every single day, the members of this Department make the lives better for the 8.8 million people we serve... We keep this city healthy , safe , and clean. That is our mission, that is who we are... We are very definition of Critical & Essential – all of us , uniformed and non -uniform members of DSNY of all ranks and titles. I urge all members of the Department to get vaccinated.

Get Vaccinated

Convenient and community-based vaccination sites can also be found via nyc.gov/vaccinefinder or by calling 877-VAX-4-NYC. All individuals who get vaccinated at a City-run site are eligible for a \$100 incentive.

If you have any questions about the vaccine or how to schedule an appointment, call the DSNY COVID-19 Hotline at 212-437-4655 (0500-2200 Mon-Sun). They will help you find a vaccination site and schedule an appointment.

Submitting Proof of Vaccination

Employees who have already provided proof of vaccination do not need to take any further action. Employees who have not yet provided proof of vaccination to Human Resources or the Medical Division should do so using the vaccine portal below or by providing documentation to your Supervisor for submission.

COVID-19 Vaccination Submission

<https://www1.nyc.gov/assets/dsny/site/contact/covid-19-vaccine-registration>

EDWARD GRAYSON

Commissioner

NYC Department of Sanitation

646 885 4974 | nyc.gov/sanitation

New York's Strongest

egrayson@dsny.nyc.gov

[Visit nyc.gov/coronavirus](http://nyc.gov/coronavirus) to learn how to protect yourself and others from COVID-19

Fw: REMINDER - TOMORROW (11/23/2021) IS THE DEADLINE TO FILE A VACCINE EXEMPTION APPEAL

American Auto Classics <infocloud@yahoo.com>

Mon 11/22/2021 6:11 PM

To: WOC4EqualJustice <jo@woc4equaljustice.org>

----- Forwarded Message -----

From: RA Determinations (DSNY) <radeterminations@dsny.nyc.gov>

Sent: Monday, November 22, 2021, 12:40:12 PM EST

Subject: REMINDER - TOMORROW (11/23/2021) IS THE DEADLINE TO FILE A VACCINE EXEMPTION APPEAL

Good afternoon,

This is a final reminder that you must submit an appeal regarding your vaccine mandate determination no later than tomorrow, Tuesday, November 23, 2021, at 5:00 PM.

If you choose to appeal, while your appeal is pending, you will be permitted to continue working as long as you continue to submit a weekly negative COVID test result. If you choose not to appeal this decision or do not submit proof of receipt of a COVID-19 vaccine by tomorrow, you will be placed in Leave Without Pay status effective Wednesday, November 24, 2021.

If you choose to appeal, appeals can be made through the following portal using your City email address: www.nyc.gov/vaxappeal. You must provide all requested information and documentation to the appeal portal and choose one of two options below for your appeal. If you do not have a City email address or access to a computer and wish to appeal, you must send an email to Appeals@dsny.nyc.gov with your name, reference number, phone number, name of your union, and appeal option selected (1 or 2), and OEDI will submit your appeal on your behalf.

For more information regarding the appeal options please review the attachment that was sent in your determination.

Thank you.

Department of Sanitation New York City



DEC | COVID-19 VACCINATIONS
21

Sent By/Time

HDQTRSOP / 10:21AM

Dept Msg#

DM2021-9085

Code

MEDCVVAC *(REV 11/27/21)*

Message

LEAVE POLICY ===== Employees who complete the vaccination process (for the Pfizer and Moderna vaccines, employees who receive both doses, for the Johnson & Johnson vaccine, employees who receive the single dose) are eligible for three hours of compensatory time. Additional compensatory time will NOT be granted for booster shots. You may also be eligible for up to four hours of excused leave for travel and administration of the vaccine. For more information on how to request excused leave or appropriate documentation necessary, contact your supervisor before scheduling your appointment. This excused leave for travel and administration of the vaccine does NOT apply to those employees who are receiving booster shots. EXCUSED LEAVE ===== An employee may take up to four hours of excused leave for travel during scheduled work hours to the administration site and receipt of the vaccination for each required administration of the vaccine. To the extent practicable, an employee should notify his or her supervisor at least three calendar days before the scheduled administration of the vaccine and schedule the excused leave for a time that minimizes interference with agency operations. The employee must submit a DS 1005, provide documentation of the scheduled vaccination at the time he or she notifies the supervisor of the need for excused leave, and provide documentation of the receipt of each required vaccination, including the date and time of administration, signed by the provider or the provider's agent. Employees are excused only for the time required to receive the vaccine, including travel to and from the vaccination site, up to a maximum of (4) four hours for each administration. Any additional time off must be charged to the employees' leave balances. An employee who receives administration of a vaccination during non-working hours shall not receive excused leave for such administration. NYC COVID VACCINE INCENTIVES ===== All City employees who submit proof of a first dose of vaccination received between October 20, 2021 and October 29, 2021 are eligible for a \$500 one-time incentive. This Incentive will be provided as a

shall be credited with (3) three hours of compensatory time. Employees are eligible to receive compensatory time upon the receipt of the vaccine whether it was received during work hours or non-working hours. This compensatory time can be used at the employee's discretion, subject to agency approval. An employee cannot be paid for this time in lieu of taking it off. The assigned locations of employees who are provided proof of the administrations of the COVID-19 Vaccination will follow the City-Time and HR directives on how to credit the specific employee of their leave/compensatory time. To credit the employee with 3 hours of compensatory time a DS-1759 Manual Leave adjustment (MLA) must be filled out using Event Type Code 4018 and the Event Date will be the day the proof was submitted. For more info and instructions on how to fill out an MLA refer to G.O. 2012-06 Timekeeping Procedures Related to Manual Leave Adjustments. A new folder for Covid-19 Vaccine proof documentation must be made up and added to the F.I.A.T. Filing System. Add copies of all notes, DS-1005's, MLA's, and other documentation. The list of eligible employees is subject to change as additional scientific evidence is published and as New York State obtains and analyzes additional state-specific data. This Department message shall be read at all remaining roll calls for the remainder of the week. All Supervisors and GS1's are to read this order and sign the blotter attesting that they have read and understand it. Borough Staff Officers will spot-check the blotter to ensure compliance. Edward R. Grayson
Commissioner

>

----- Forwarded Message -----

From: NYC Employee Vaccine Appeals <vaxappeal@dcas.nyc.gov>

To: infocloud@yahoo.com <infocloud@yahoo.com>

Sent: Wednesday, January 19, 2022, 12:16:40 PM EST

Subject: Reasonable Accommodation Appeal Determination

The City of New York Reasonable Accommodation Appeals Panel has carefully reviewed your Agency's determination, all of the documentation submitted to the agency and the additional information you submitted in connection with the appeal. Based on this review, the Appeals Panel has decided to deny your appeal. This determination represents the final decision with respect to your reasonable accommodation request.

The decision classification for your appeal is as follows: Does Not Meet Criteria

Pursuant to the City of New York's policy concerning the vaccine mandate, you now have **three business days** from the date of this notice to submit proof of vaccination. If you do not do so, you will be placed on a leave without pay (LWOP).



sanitation

Edward Grayson Commissioner

Javier D. Lojan
Director
Bureau of Administration

January 31, 2022

Acting Executive Director of
Human Resources

VIA OVERNIGHT MAIL

New York City
Department of Sanitation
59 Maiden Lane
5th Floor
New York, NY 10038

Bruce Reid
Reference: 594359
135-11 62nd Avenue
Flushing, NY 11367

Re: Proof of Vaccination Required by February 11, 2022

Dear Bruce Reid:

You have been placed on Leave Without Pay status due to your noncompliance with the Order of the Commissioner of Health and Mental Hygiene dated October 20, 2021 that all City employees provide proof of receipt of a COVID-19 vaccine. Additionally, you have elected not to continue health benefits coverage while on Leave Without Pay status through June 30, 2022, pursuant to an agreement between your union and the City. **Please be advised that your position with DSNY will be terminated if you do not submit proof of receipt of a COVID-19 vaccine by 5:00pm on February 11, 2022.**

Compliance with this requirement is a condition of your continued employment with the City. Failure to provide proof of vaccination by February 11, 2022 will result in the termination of your employment with DSNY. For information regarding where you can receive a COVID-19 vaccine, please visit <https://vaccinefinder.nyc.gov/>.

Please submit proof of receipt of a COVID-19 vaccine as soon as possible, but no later than by 5:00pm on February 11, 2022. If DSNY does not receive your proof of receipt of a COVID-19 vaccine by this date and time, your employment will be terminated.

Sincerely,

Javier D. Lojan

AFFIDAVIT OF
J. RULLO

EXHIBIT #13

STATE OF NEW YORK)
) ss.
COUNTY OF SUFFOLK)

J. RULLO, being first duly sworn on oath, deposes and declares as follows:

1. I am above the age of 18 and am competent to make this affidavit.
2. I was a Sanitation Worker Ref# 0596272 performing Garage Utility duties for the Queens District 7A, New York City Department of Sanitation (DSNY) located at 120-15 31st Ave. Flushing, NY 11356.
3. I served as a Sanitation Worker for over 17 years.
4. My position did not require me to provide face to face client or public engagement. My job consisted of garage maintenance duty including changing truck tires, organizing equipment and inventory and maintaining snow removal equipment. I primarily worked alone in a completely open and very large garage depot area with no contact with the general public, and very little contact with other employees only when necessary.
5. On September 11, 2021, I was notified by the Department that I would need to provide weekly COVID-19 PCR tests starting on September 13, 2021, if I chose to not take the COVID-19 vaccination. See Exhibit A
6. I complied with this order and began submitting weekly testing on September 13, 2021 and continued doing so each following week as required until I received a positive Covid test on December 27, 2021 and I was told that I did not need to test again until March 20, 2022, which was called a "test exemption". See Exhibit A1
7. On October 22, 2021, I was then notified by the Department that they would require all employees to receive the COVID19 vaccine by October 30, 2021 or be placed on Leave without Pay status beginning on November 1st 2021. See Exhibit B
8. The Vaccine Mandate notice stated that employees may request accommodations for medical or religious exemptions that would have to be submitted to RAExemptions@dsny.nyc.gov by October 27th, 2021.
9. I submitted my request for religious exemption on October 27, 2021, as required by the DSNY. See Exhibit C
10. I continued to submit weekly COVID19 PCR tests as was required.
11. On October 28, 2021, I received an email from the DSNY Office of Equity, Diversity and Inclusion notifying me that my exemption request was under review. See Exhibit D

12. On November 5, 2021, I received an email from a Dan Hagevick with DSNY, asking for additional information regarding my religious exemption submission, which I responded to. See Exhibit E
13. On November 18, 2021, I received an email from the DSNY stating they denied my request for religious exemption accommodations. The email included a letter that gave instructions for filing an appeal to the denial, which had to be submitted by November 23, 2021. See Exhibit F
14. On November 23, 2021, I submitted my appeal for religious exemption as was required. See Exhibit G
15. On November 27, 2021, DSNY issued a notice stating that those who took the vaccine would receive compensation for taking time off to take the vaccine as an incentive and they would received an additional payment of \$500 as a one time incentive to take the vaccine. See Exhibit H
16. On January 19, 2022, I received an email from the Department stating my appeal was denied, and that I would be placed on Leave without Pay Status on January 25, 2022, if proof of COVID-19 vaccination was not submitted by January 24, 2022.
17. At no time did anyone from the Department of Sanitation meet and confer with me to discuss any and all possible accommodations or workplace safety mitigation controls. Nor was I trained in OSHA safety standards for COVID mitigation or provided OSHA/NIOSH approved safety equipment such as a powered air respirator (PAPR MASK) that I specifically requested. There was never any dialogue about the nature of my job to determine if I needed an exemption and accommodation or additional safety equipment due to the Covid-19 Pandemic based on my job description and my unvaccinated status due to my religious beliefs.
18. On February 8, 2022, I received a letter from the Department stating that I would be terminated on February 11, 2022 for failure to complete vaccination as a condition of my employment. See Exhibit I
19. I did not complete the vaccination by February 11, 2022.
20. There has never been any determination by the union or the courts that the vaccination was a "condition of my employment". When I started my job there was never any pre-employment notice to me that upon acceptance of the job that I agreed to receive any vaccinations as a condition of my acceptance of employment.
21. I was told by the Union that they entered into an MOU with New York City so that they would protect union members religious exemptions because the MOU included provisions for providing the exemptions.
22. Instead of granting exemptions to workers like myself, New York City was denying requests for exemptions and claiming that the MOU was a term of employment that workers must submit to.

23. When the Union learned of how New York City was not granting exemptions as was to be permitted under the MOU, and moving to terminate it's members, my union recanted the MOU and called out New York City for it's failures.
24. The unexpected decision to terminate me is unfair and discriminatory especially when others in the Department have also been granted exemptions and accommodations and I have not.
25. The Mayor reported at a public press conference that hundreds of other city workers had received accommodations.
26. This termination has resulted in the loss of health benefits. I am the sole provider for my family. I must retain health benefits due to the health needs of my wife.
27. To go without health insurance coverage will cause serious harm to my family as my wife will not be able to continue to see the doctors for her healthcare needs.
28. The termination letter is my final determination that I have exhausted my administrative remedies.
29. I have filed an EEOC complaint and requested a right to sue letter, but because of the backlog, I am currently awaiting to receive it.

I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct.

Dated this 15 day of April, 2022.

J. Rullo
J. Rullo

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

Subscribed and sworn to (or affirmed) before me on this 15 day of April 2022, by J. Rullo, who provided to me on the basis of satisfactory evidence to be the person(s) who appeared before me is the person whose identification reveals their entire first and last name.

Witness my hand and official seal.

[Signature]
Signature of Notary Public

[Affix Notary Seal]

KEVIN HAGLER
Notary Public, State of New York
Reg. No. 02HA6305622
Qualified in Nassau County
Commission Expires June 9, 2022

DSOA, QN07ANNEX (DSNY)

From: Anderson, Gregory (DSNY)
Sent: Friday, September 10, 2021 1:29 PM
Subject: COVID-Safe Requirements: Starting Monday, September 13
Attachments: PAP 21-02.pdf

Dear colleagues -

In accordance with the City's COVID-Safe requirement, every Department employee must either provide a one-time verification that they are fully vaccinated OR provide a weekly record of a negative PCR test beginning Monday, September 13.

Vaccination

Employees who have already provided proof of vaccination do not need to take any further action. Employees who have not yet provided proof of vaccination to Human Resources or the Medical Division should do so using the vaccine portal below.

COVID-Safe Vaccination Submission

<https://www1.nyc.gov/assets/dsny/site/contact/covid-19-vaccine-registration>

If you have not yet received your COVID-19 vaccine, the Department strongly encourages you to do so. Nothing can provide a higher level of protection against COVID-19 or do more to speed the City's recovery than vaccines, which are safe and lifesaving. Convenient and community-based vaccination sites can be found via nyc.gov/vaccinefinder or by calling 877-VAX-4-NYC.

If you have any questions about the vaccine or how to schedule an appointment, call the DSNY COVID-19 Hotline at 212-437-4655 (0500-2200 Mon-Sun). They will help you find a vaccination site and schedule an appointment.

Weekly Testing

Employees who choose not to provide proof of vaccination must provide weekly COVID PCR test results. Department employees may submit proof of weekly negative COVID-19 test results to Human Resources and the Medical Division through the online DSNY COVID-SAFE testing form below. Field employees or those without regular access to a computer may choose to email or hand in their test information to their timekeeper or supervisor for the limited purpose of having the timekeeper or supervisor submit the test information on their behalf. All employee test results will be treated confidentially.

COVID-Safe Weekly Testing Submission

<https://www1.nyc.gov/assets/dsny/site/contact/covid-19-weekly-test-registration>

Only PCR tests processed by medical professionals qualify for the City's COVID-Safe Requirement. These tests usually take one-two days to process at a lab, but some PCR tests are rapid tests. Both rapid and non-rapid PCR tests can be used. Antigen tests and at-home tests do not qualify for this requirement.

The City of New York offers free COVID-19 testing in convenient locations across the five boroughs and will continue to do so. An updated list of City-sponsored test sites is available at <https://www.nychealthandhospitals.org/test-and-trace/testing/>. Private providers may charge for testing or charge a co-pay. Employees are strongly encouraged to ask about associated costs before being tested. Most providers across the City will attempt to bill insurance for test collection. A full list of public and private PCR testing sites, visit: nyc.gov/covidtest.

Failure to comply

Employees who fail to comply with these requirements will be placed in Leave Without Pay status until they are in compliance. Employees who fail to comply may also face disciplinary action.

For more information on the Department's policies implementing the City's COVID-Safe Requirement, see PAP 2021-02, attached.

Best regards,
 Greg Anderson

GREGORY ANDERSON

Chief of Staff and
 Deputy Commissioner for Policy and External Affairs

NYC Department of Sanitation
gpanderson@dsny.nyc.gov



**THE CITY OF NEW YORK
DEPARTMENT OF SANITATION
POLICY AND ADMINISTRATIVE PROCEDURE
2021-03**



EFFECTIVE DATE: October 28, 2021

SUBJECT: **COVID-19 VACCINATION REQUIREMENT**

AFFECTED DIRECTIVES: PAP 2021-02 is rescinded.

REFERENCE: Order of the Commissioner of Health and Mental Hygiene dated October 20, 2021.

INTRODUCTION

An Order of the Commissioner of Health and Mental Hygiene issued on October 20, 2021 (the "Health Order") requires that all City employees, including all employees of the Department of Sanitation, provide proof that they have been vaccinated against COVID-19.

All Department employees must provide proof of vaccination no later than 2:00 p.m. on Saturday, October 30, 2021, or they will be placed in Leave Without Pay (LWOP) status beginning November 1, 2021. Employees may resume working in pay status immediately after providing proof of vaccination.

Employees who submitted a request for accommodation from the vaccination requirement on or before October 27, 2021 may continue to work while that request is pending, provided that they continue to submit proof of a weekly negative COVID-19 PCR test result. Employees who fail to do so will be placed in Leave Without Pay status. Employees who submit a request for accommodation on or after October 28, 2021 will be placed in Leave Without Pay status while their request is pending.

These provisions describe the procedures for providing proof of vaccination or, for employees with approved accommodations or pending requests for accommodation submitted prior to or on October 27, 2021, weekly negative tests.

DEFINITIONS

Department employee: Any employees of the New York City Department of Sanitation, regardless of title, including part-time and seasonal employees.

Excused leave: A paid leave of absence to include travel time to and from a testing or vaccination location.

Proof of Vaccination: Proof that an employee has:

1. been fully vaccinated against COVID-19;
2. received a single-dose COVID-19 vaccine, even if two weeks have not passed since they received the vaccine; or
3. received the first dose of a two-dose COVID-19 vaccine, provided that any employee who

received only the first dose of a two-dose vaccination at the time they initially provided proof shall provide proof of a second dose within 45 days after receipt of the first dose.

Qualifying test: A polymerase chain reaction (PCR) test processed by medical professionals, including rapid PCR tests. Antigen tests and at-home tests do not qualify for this requirement.

GENERAL PROVISIONS

1. All Department employees must provide proof of COVID-19 vaccination.
2. Employees must provide proof of COVID-19 vaccination no later than 2:00 p.m. on Saturday, October 30, 2021, or they will be placed in Leave Without Pay status beginning November 1, 2021.
3. Employees placed in LWOP status for failure to comply with this requirement may resume working in pay status immediately after providing proof of vaccination. Employees who fail to provide proof of a second dose, where required, within 45 days after receipt of the first dose will be placed in LWOP status.
4. Acceptable proof of COVID-19 vaccination includes: an official CDC card or other official immunization card bearing the employee's name and date(s) of vaccination or a photograph of such card; an Excelsior Pass issued by the State of New York; or the NYC COVID SAFE app that clearly displays an image of the CDC card or other official immunization card with the above noted requirement.
5. All Department employees are covered by this requirement. Employees on long-term sick or medical leave, Lodi, scheduled vacation, or with a reasonable accommodation allowing full-time telework as of November 1, 2021 must comply with this requirement when they resume to in-person work. Employees on short-term sick leave, as determined by the Medical Division, are subject to this requirement and will be placed in LWOP status beginning November 1, 2021 if they fail to provide proof of vaccination.
6. Employees who have approved accommodations exempting them from the vaccination requirement must submit proof of a weekly negative COVID-19 PCR test result. Such proof must be submitted weekly via the online portal or to an employee's timekeeper or supervisor. Only qualifying tests may be used for this purpose. Employees who fail to submit proof of a weekly negative COVID-19 PCR test result will be placed in LWOP status until they comply with this requirement.
7. Employees who submitted a request for accommodation on or before October 27, 2021 may continue to work while that request is pending, provided that they submit proof of a weekly negative COVID-19 PCR test result. Such proof be submitted weekly via the online portal or to an employee's timekeeper or supervisor. Only qualifying tests may be used for this purpose. Employees who fail to submit proof of a weekly negative COVID-19 PCR test result will be placed in LWOP status until they comply with this requirement.
8. Employees who submitted a request for accommodation on or after October 28, 2021 will be placed in LWOP status while that request is pending.
9. Department employees who fail to comply with the requirements of this PAP will be placed in Leave Without Pay status until they comply. Employees who fail to comply may be subject to disciplinary action.

PROCEDURES

All Department employees must provide proof of COVID-19 vaccination.

COVID-19 Vaccination

Department employees may submit proof of COVID-19 vaccination to Human Resources and the Medical Division through the online DSNY COVID Vaccine portal. Field employees or those without regular access to a computer may choose to email or hand in their proof of vaccination to their timekeeper or supervisor for the

limited purpose of having the timekeeper or supervisor submit the proof on their behalf. All employee vaccination documentation will be treated confidentially.

Proof of COVID-19 vaccination includes an official CDC card or other official immunization card bearing the employee's name and date(s) of vaccination or a photograph of such card; an Excelsior Pass issued by the State of New York; or the NYC COVID SAFE app that clearly displays an image of the CDC card or other official immunization card with the above noted requirement.

Department employees who have previously provided proof of vaccination to Human Resources or the Medical Division do not need to resubmit proof of vaccination.

All Department employees are covered by this requirement. Employees on long-term sick or medical leave, LODI, scheduled vacation, or with a reasonable accommodation allowing full-time telework as of November 1, 2021, must comply with this requirement when they resume in-person work. Employees on short-term sick leave, as determined by the Medical Division, are subject to this requirement and will be placed in LWOP status beginning November 1, 2021 if they fail to provide proof of vaccination.

Employees placed in LWOP status for failure to comply with this requirement may resume working in pay status immediately after providing proof of vaccination.

Exemption from the Vaccination Requirement

Medical or religious accommodations will only be granted in limited circumstances. Requests for accommodation must be made in writing to the DSNY Office of Equity, Diversity and Inclusion. The only allowable accommodation from vaccination is submission of proof of a weekly negative COVID-19 PCR test result.

All Department employees are covered by this requirement unless they have a medical or religious accommodation approved by the Department. Employees with a pending request for a medical or religious accommodation submitted on or before October 27, 2021 may continue to work in pay status while their request is pending. All employees with approved accommodations or qualifying pending accommodation requests as described in this paragraph must submit proof of a weekly negative COVID-19 PCR test result as described below, or they will be placed in LWOP status.

Employees whose request for accommodation are denied must provide proof of vaccination within three (3) business days. Employees who fail to provide proof of vaccination within three (3) business days will be placed in LWOP status.

Employees who submit requests for accommodation on or after October 28, 2021 will be placed in LWOP status while their request is pending review.

Weekly COVID-19 Testing

Department employees who are exempt from the vaccination requirement as described above must submit proof of a weekly negative COVID-19 PCR test result. Only qualifying polymerase chain reaction (PCR) tests may be used for this purpose. Tests can be submitted to Human Resources and the Medical Division through the online COVID-Safe portal. Field employees or those without regular access to a computer may choose to email or hand in their test information to their timekeeper or supervisor for the limited purpose of having the timekeeper or supervisor submit the test information on their behalf. All employee test results will be treated confidentially.

Employees who test positive for COVID-19 should contact the Health Care Facility via the COVID-19 Hotline at (212) 437-4655.

For the purposes of this policy, weekly testing means that a Department employee is required to submit the result of a test taken once every seven calendar days. An employee who has been tested within the preceding

seven days, but is still waiting for the result may report to work with a pending test result as long as they meet the criteria of the health screening, and provided that the test result is submitted to Human Resources and the Medical Division as soon as it becomes available.

The Department may provide on-site weekly COVID-19 testing at Department locations. During any period when such on-site testing is provided, employees are not eligible to excused leave for testing. The Department will allow employees to utilize on-site testing during City time and will make accommodations to allow employees to utilize such on-site testing, consistent with operational need. Employees who chose not to utilize on-site testing may seek weekly COVID-19 tests elsewhere; however, these employees must continue to submit proof of a weekly negative COVID-19 PCR test result as described above.

In the event that the Department does not provide or ceases to provide on-site testing at Department locations, employees who are exempt from the vaccination requirement will be eligible for up to three (3) hours per week of excused leave for the purposes of receiving a weekly COVID-19 PCR test. Excused leave may only be used during an employee's regularly-scheduled work shift. Where feasible, an employee should contact their supervisor at least two (2) days in advance of testing to schedule excused leave. If an employee requires more than three (3) hours to undergo testing, no additional excused leave will be provided, and the employee will not be compensated for the additional time. To qualify for excused leave, the date of the qualifying test must be the same as the date the employee requests excused leave.

Employee vaccination and testing information must be kept private and secure and may only be shared with designated agency staff and City officials.

Failure to Comply

Employees who fail to comply with this policy will be placed in Leave Without Pay (LWOP) status until they provide either proof of COVID-19 vaccination or proof of weekly COVID-19 PCR test result. Employees who fail to comply with this policy may also be subject to disciplinary action.

ISSUING AUTHORITY:



**Edward Grayson,
Commissioner**

DISTRIBUTION:

All Management Personnel
This Order must be kept posted at all Department locations until cancelled.

**ORDER OF THE COMMISSIONER
OF HEALTH AND MENTAL HYGIENE
TO REQUIRE COVID-19 VACCINATION FOR
CITY EMPLOYEES AND CERTAIN CITY CONTRACTORS**

WHEREAS, on March 12, 2020, Mayor Bill de Blasio issued Emergency Executive Order No. 98 declaring a state of emergency in the City to address the threat posed by COVID-19 to the health and welfare of City residents, and such order remains in effect; and

WHEREAS, on March 25, 2020, the New York City Commissioner of Health and Mental Hygiene declared the existence of a public health emergency within the City to address the continuing threat posed by COVID-19 to the health and welfare of City residents, and such declaration and public health emergency continue to be in effect; and

WHEREAS, pursuant to Section 558 of the New York City Charter (the “Charter”), the Board of Health may embrace in the Health Code all matters and subjects to which the power and authority of the Department of Health and Mental Hygiene (the “Department”) extends; and

WHEREAS, pursuant to Section 556 of the Charter and Section 3.01(c) of the Health Code, the Department is authorized to supervise the control of communicable diseases and conditions hazardous to life and health and take such actions as may be necessary to assure the maintenance of the protection of public health; and

WHEREAS, the U.S. Centers for Disease Control and Prevention (“CDC”) reports that new variants of COVID-19, identified as “variants of concern” have emerged in the United States, and some of these new variants which currently account for the majority of COVID-19 cases sequenced in New York City, are more transmissible than earlier variants; and

WHEREAS, the CDC has stated that vaccination is an effective tool to prevent the spread of COVID-19 and the development of new variants, and benefits both vaccine recipients and those they come into contact with, including persons who for reasons of age, health, or other conditions cannot themselves be vaccinated; and

WHEREAS, the Department reports that between January 17 and August 7, 2021, people who were unvaccinated or not fully vaccinated accounted for 96.1% of COVID-19 cases, 96.9% of COVID-19 hospitalizations, and 97.3% of COVID-19 deaths in New York City; and

WHEREAS, a study by Yale University demonstrated that the Department’s vaccination campaign was estimated to have prevented about 250,000 COVID-19 cases, 44,000 hospitalizations, and 8,300 deaths from COVID-19 infection since the start of vaccination through July 1, 2021, and by information and belief, the number of prevented cases, hospitalizations, and death has risen since then; and

WHEREAS, on August 16, 2021, Mayor de Blasio issued Emergency Executive Order No. 225, the “Key to NYC,” requiring that patrons and employees of establishments providing indoor entertainment, dining, and gyms and fitness centers must show proof that they have received at least one dose of an approved COVID-19 vaccine, and such Order, as amended, is still in effect; and

WHEREAS, on August 24, 2021, I issued an Order requiring that Department of Education employees, contractors, and visitors provide proof of COVID-19 vaccination before entering a DOE building or school setting, and such Order was re-issued on September 12 and

15, 2021, and subsequently amended on September 28, 2021, and such Orders and amendment were ratified by the New York City Board of Health on September 17, 2021 and October 18, 2021; and

WHEREAS, on August 26, 2021, the New York State Department of Health adopted emergency regulations requiring staff of inpatient hospitals and nursing homes to receive the first dose of a COVID-19 vaccine by September 27, 2021, and staff of diagnostic and treatment centers, hospices, home care and adult care facilities to receive the first dose of a COVID-19 vaccine by October 7, 2021; and

WHEREAS, on August 31, 2021, Mayor de Blasio issued Executive Order No. 78, requiring that, beginning September 13, 2021, City employees and covered employees of City contractors be vaccinated against COVID-19 or submit on a weekly basis proof of a negative COVID-19 PCR diagnostic test; and

WHEREAS, on September 9, 2021 President Biden issued an Executive Order stating that “It is essential that Federal employees take all available steps to protect themselves and avoid spreading COVID-19 to their co-workers and members of the public,” and ordering each federal agency to “implement, to the extent consistent with applicable law, a program to require COVID-19 vaccination for all of its Federal employees, with exceptions only as required by law”; and

WHEREAS, on September 12, 2021, I issued an Order requiring that staff of early childhood programs or services provided under contract with the Department of Education or the Department of Youth and Community Development provide proof of COVID-19 vaccination; and

WHEREAS, Section 17-104 of the Administrative Code of the City of New York directs the Department to adopt prompt and effective measures to prevent the communication of infectious diseases such as COVID-19, and in accordance with Section 17-109(b), the Department may adopt vaccination measures to effectively prevent the spread of communicable diseases; and

WHEREAS, City employees and City contractors provide services to all New Yorkers that are critical to the health, safety, and well-being of City residents, and the City should take reasonable measures to reduce the transmission of COVID-19 when providing such services; and

WHEREAS, a system of vaccination for individuals providing City services and working in City offices will potentially save lives, protect public health, and promote public safety; and

WHEREAS, there is a staff shortage at Department of Corrections (“DOC”) facilities, and in consideration of potential effects on the health and safety of inmates in such facilities, and of the benefit to public health and employee health of a fully vaccinated correctional staff, it is necessary that the requirements of this Order for DOC uniformed personnel not assigned to posts in healthcare settings be delayed; and

WHEREAS, pursuant to Section 3.01(d) of the Health Code, I am authorized to issue orders and take actions that I deem necessary for the health and safety of the City and its residents when urgent public health action is necessary to protect the public health against an existing threat and a public health emergency has been declared pursuant to such Section;

NOW THEREFORE I, Dave A. Chokshi, MD, MSc, Commissioner of Health and Mental Hygiene, finding that a public health emergency within New York City continues, and that it is

necessary for the health and safety of the City and its residents, do hereby exercise the power of the Board of Health to prevent, mitigate, control and abate the current emergency, and order that:

1. My Order of August 10, 2021, relating to a vaccination or testing requirement for staff in City operated or contracted residential and congregate settings, shall be **RESCINDED** as of November 1, 2021. Such staff are subject to the requirements of this Order.
2. No later than 5pm on October 29, 2021, all City employees, except those employees described in Paragraph 5, must provide proof to the agency or office where they work that:
 - a. they have been fully vaccinated against COVID-19; or
 - b. they have received a single-dose COVID-19 vaccine, even if two weeks have not passed since they received the vaccine; or
 - c. they have received the first dose of a two-dose COVID-19 vaccine

Any employee who received only the first dose of a two-dose vaccine at the time they provided the proof described in this Paragraph shall, within 45 days after receipt of the first dose, provide proof that they have received the second dose of vaccine.

3. Any City employee who has not provided the proof described in Paragraph 2 must be excluded from the premises at which they work beginning on November 1, 2021.
4. No later than 5pm on October 29, 2021, City agencies that contract for human services contracts must take all necessary actions to require that those human services contractors require their covered employees to provide proof that:
 - a. they have been fully vaccinated against COVID-19; or
 - b. they have received a single-dose COVID-19 vaccine, even if two weeks have not passed since they received the vaccine; or
 - c. they have received the first dose of a two-dose COVID-19 vaccine.

Any covered employee of a human service contractor who received only the first dose of a two-dose vaccine at the time they provided the proof described in this Paragraph shall, within 45 days after receipt of the first dose, provide proof that they have received the second dose of vaccine.

All such contractors shall submit a certification to their contracting agency confirming that they are requiring their covered employees to provide such proof. If contractors are non-compliant, the contracting City agencies may exercise any rights they may have under their contract.

5. Notwithstanding Paragraphs 3 and 4 of this Order, until November 30, 2021, the provisions of this Order shall not apply to uniformed Department of Corrections (“DOC”) employees, including staff serving in Warden and Chief titles, unless such uniformed employee is assigned for any time to any of the following locations: Bellevue Hospital; Elmhurst Hospital; the DOC

infirmary in North Infirmary Command; the DOC West Facility; or any clinic staffed by Correctional Health Services.

Uniformed employees not assigned to such locations, to whom this Order does not apply until November 30, 2021, must, until such date, either:

- a. Provide DOC with proof that:
 - i. they have been fully vaccinated against COVID-19; or
 - ii. they have received a single-dose COVID-19 vaccine, even if two weeks have not passed since they received the vaccine; or
 - iii. they have received the first dose of a two-dose COVID-19 vaccine, provided that they must additionally provide proof that they have received the second dose of vaccine within 45 days after receipt of the first dose; or
- b. On a weekly basis until the employee submits the proof described in this Paragraph, provide DOC with proof of a negative COVID-19 PCR diagnostic test (not an antibody test).

6. For the purposes of this Order:

“City employee” means a full- or part-time employee, intern, or volunteer of a New York City agency.

“Contract” means a contract awarded by the City, and any subcontract under such a contract, for work: (i) to be performed within the City of New York; and (ii) where employees can be expected to physically interact with City employees or members of the public in the course of performing work under the contract.

“Contractor” means a person or entity that has a City contract, including a subcontract as described in the definition of “contract.”

“Covered employee” means a person: (i) employed by a contractor or subcontractor holding a contract; (ii) whose salary is paid in whole or in part from funds provided under a City contract; and (iii) who performs any part of the work under the contract within the City of New York. However, a person whose work under the contract does not include physical interaction with City employees or members of the public shall not be deemed to be a covered employee.

“Fully vaccinated” means at least two weeks have passed after an individual received a single dose of a COVID-19 vaccine that only requires one dose, or the second dose of a two-dose series of a COVID-19 vaccine as approved or authorized for use by the Food and Drug Administration or World Health Organization.

“Human services contract” means social services contracted by an agency on behalf of third-party clients including but not limited to day care, foster care, home care, health or medical services, housing and shelter assistance, preventive services, youth services, the operation of

senior centers, employment training and assistance, vocational and educational programs, legal services and recreation programs.

7. Each City agency shall send each of its human services contractors notice that covered employees of such contractors must comply with the requirement of Paragraph 4 of this Order and request a response from each such contractor, as soon as possible, with regard to the contractor's intent to follow this Order.
8. Nothing in this Order shall be construed to prohibit any reasonable accommodation otherwise required by law.
9. This Order shall not apply to individuals who already are subject to another Order of the Commissioner of Health and Mental Hygiene, Board of Health, the Mayor, or a State or federal entity that requires them to provide proof of full vaccination and have been granted a reasonable accommodation to such requirement.
10. This Order shall not apply to per diem poll workers hired by the New York City Board of Elections to conduct the election scheduled for November 2, 2021.
11. Subject to the authority of the Board of Health to continue, rescind, alter or modify this Order pursuant to Section 3.01(d) of the Health Code, this Order shall be effective immediately and remain in effect until rescinded, except that Paragraph 5 of this Order will be deemed repealed on December 1, 2021.

Dated: October 20, 2021



Dave A. Chokshi, M.D., MSc
Commissioner

Department of Sanitation New York City



DEC | COVID-19 VACCINATIONS
21

Sent By/Time

HDQTRSOP / 10:21AM

Dept Msg#

DM2021-9085

Code

MEDCVVAC *(REV 11/27/21)*

Message

LEAVE POLICY ===== Employees who complete the vaccination process (for the Pfizer and Moderna vaccines, employees who receive both doses, for the Johnson & Johnson vaccine, employees who receive the single dose) are eligible for three hours of compensatory time. Additional compensatory time will NOT be granted for booster shots. You may also be eligible for up to four hours of excused leave for travel and administration of the vaccine. For more information on how to request excused leave or appropriate documentation necessary, contact your supervisor before scheduling your appointment. This excused leave for travel and administration of the vaccine does NOT apply to those employees who are receiving booster shots. EXCUSED LEAVE ===== An employee may take up to four hours of excused leave for travel during scheduled work hours to the administration site and receipt of the vaccination for each required administration of the vaccine. To the extent practicable, an employee should notify his or her supervisor at least three calendar days before the scheduled administration of the vaccine and schedule the excused leave for a time that minimizes interference with agency operations. The employee must submit a DS 1005, provide documentation of the scheduled vaccination at the time he or she notifies the supervisor of the need for excused leave, and provide documentation of the receipt of each required vaccination, including the date and time of administration, signed by the provider or the provider's agent. Employees are excused only for the time required to receive the vaccine, including travel to and from the vaccination site, up to a maximum of (4) four hours for each administration. Any additional time off must be charged to the employees' leave balances. An employee who receives administration of a vaccination during non-working hours shall not receive excused leave for such administration. NYC COVID VACCINE INCENTIVES===== All City employees who submit proof of a first dose of vaccination received between October 20, 2021 and October 29, 2021 are eligible for a \$500 one-time incentive. This Incentive will be provided as a

shall be credited with (3) three hours of compensatory time. Employees are eligible to receive compensatory time upon the receipt of the vaccine whether it was received during work hours or non-working hours. This compensatory time can be used at the employee's discretion, subject to agency approval. An employee cannot be paid for this time in lieu of taking it off. The assigned locations of employees who are provided proof of the administrations of the COVID-19 Vaccination will follow the City-Time and HR directives on how to credit the specific employee of their leave/compensatory time. To credit the employee with 3 hours of compensatory time a DS-1759 Manual Leave adjustment (MLA) must be filled out using Event Type Code 4018 and the Event Date will be the day the proof was submitted. For more info and instructions on how to fill out an MLA refer to G.O. 2012-06 Timekeeping Procedures Related to Manual Leave Adjustments. A new folder for Covid-19 Vaccine proof documentation must be made up and added to the F.I.A.T. Filing System. Add copies of all notes, DS-1005's, MLA's, and other documentation. The list of eligible employees is subject to change as additional scientific evidence is published and as New York State obtains and analyzes additional state-specific data. This Department message shall be read at all remaining roll calls for the remainder of the week. All Supervisors and GS1's are to read this Order and sign the blotter attesting that they have read and understand it. Borough Staff Officers will spot-check the blotter to ensure compliance. Edward R. Grayson
Commissioner

12.20.21

Guidance on Accommodations for Workers

Per the December 13, 2021 Order of the Commissioner of Health workplaces are required to exclude staff who are not vaccinated and do not fit within exceptions provided by the Order no later than December 27, 2021.

Pursuant to Section 6 of that order, workers may apply for a Reasonable Accommodation to be exempt from this requirement. Reasonable accommodations may be granted for religious reasons and for documented medical reasons (including documented medical reasons relating to pregnancy).

In some cases it may be appropriate to allow a brief extension of time to be vaccinated for a person who is the victim of domestic violence, sex offenses or stalking. A claim for a reasonable accommodation on this basis should be supported by documentation from a social worker, clergy member or other professional who can confirm the worker's status as a victim.

Employers may deny accommodations that impose an undue burden on the employer. EEOC guidance states that whether undue hardship exists should be based on an analysis of several factors, including:

- the nature and cost of the accommodation needed;
- the overall financial resources of the facility making the reasonable accommodation; the number of persons employed at this facility; the effect on expenses and resources of the facility;
- the overall financial resources, size, number of employees, and type and location of facilities of the employer (if the facility involved in the reasonable accommodation is part of a larger entity);
- the type of operation of the employer, including the structure and functions of the workforce, the geographic separateness, and the administrative or fiscal relationship of the facility involved in making the accommodation to the employer;
- the impact of the accommodation on the operation of the facility.

The attached checklists are not legal advice. The checklists are intended to guide employers and managers in evaluating requests they may receive from workers for reasonable accommodations or exemptions from the requirement that they be vaccinated against COVID-19. It is not intended, nor is it a substitute for legal advice from a licensed attorney.

For more information about the reasonable accommodation process you can review the information provided by the [New York City Commission on Human Rights](#) and the [Equal Employment Opportunity Commission](#).

MAINTAIN COPIES OF COMPLETED CHECKLISTS TO SERVE AS A RECORD FOR ANY EXEMPTIONS OR ACCOMMODATIONS THAT ARE GRANTED.

12.20.21

Accommodation for Medical Reasons

All medical documentation must be from the worker's health care provider with a valid medical license. The below are circumstances found by the CDC and the New York City Department of Health and Mental Hygiene as worthy of medical exemption from vaccination:

1. A **Permanent** Medical Exemption may be granted if:

- ☐ Worker had a severe allergic reaction (for example, anaphylaxis or angioedema) after a previous dose or to a component of all three approved COVID-19 vaccines.
- ☐ Worker has a known diagnosed allergy to a component in all three approved COVID-19 vaccines.

2. A **Temporary** Medical Exemption may be granted if:

- ☐ Worker has presented medical documentation showing that they are within 90 days of monoclonal antibody or convalescent plasma treatment of COVID-19.
- ☐ Worker has presented medical documentation showing they recently underwent stem cell transplant, CAR Tcell therapy, or other therapy or treatment that would temporarily interfere with the worker's ability to respond adequately to vaccination, or mount an immune response due to treatment.
- ☐ Worker has Pericarditis or myocarditis.

The length of a temporary medical exemption will be determined on a case-by-case basis after considering the medical documentation. An employee will be required to be vaccinated at the end of the temporary period.

If any of the above boxes in 1 or 2 are checked, Worker may receive an accommodation and not be vaccinated.

Accommodation

- ☐ Weekly PCR testing for COVID-19 and Masking at all times when not eating or drinking. Any eating or drinking must occur at least six feet away from others.
- ☐ Telework or remote work that does not expose others to the accommodated worker.
- ☐ Leave of Absence.
- ☐ Other _____
- ☐ No accommodation is granted because the unvaccinated worker would likely pose a direct threat to themselves or others.
- ☐ No accommodation is granted because accommodation presents an undue burden on the employer.

Worker Name: _____ Date: _____

Temporary Accommodation Ends On: _____

Employer Representative: _____ Title: _____

12.20.21

Accommodation for Religious Reasons

1. Is the request based solely on a personal, political, or philosophical preference?
- ☐ The government should not force people to get vaccines or interfere with medical decisions.
- ☐ This vaccine is not safe or ineffective.
- ☐ COVID is a hoax.
- ☐ Other expression of personal, political or philosophical belief _____
-

If any of the above are the only basis for the accommodation request, Worker does not qualify for a religious accommodation.

2. Is the request based on a sincerely held religious, moral, or ethical belief?
- ☐ Worker has explained/documented how the belief requires the worker not to be vaccinated.
- > Worker saying, for example, they practice a particular religion is not enough on its own.
- > A clergy letter is not required, but helpful and persuasive when the clergy is someone who has a personal relationship with the employee; Form letters or letters from out-of-town clergy who do not know the worker generally are not.
- ☐ The worker has not taken other kinds of vaccinations previously.
- > If worker has received other vaccines, they should explain why those vaccines were not against their religion.
- ☐ Worker says religious belief prevents them from allowing certain substances to enter their body.
- > If yes, the worker should list/describe other commonly used medicines, food/drink, or other substances that they do not allow to enter their bodies.
-
- ☐ Worker says that they cannot take the vaccine because it was developed and/or tested using fetal cells that the worker is concerned may have been the result of an abortion.
- > Does worker takes medications such as ibuprofen (Advil), acetaminophen (Tylenol), or any other medications similarly developed or tested using fetal cell derivative lines? Such behavior would be inconsistent with this religious belief and generally means the worker would be denied an accommodation.

If any of the above are checked, Worker may qualify for a religious accommodation.

Accommodation

- ☐ Weekly PCR testing for COVID-19 and Masking at all times when not eating or drinking. Any eating or drinking must occur at least six feet away from others.
- ☐ Telework or remote work that does not expose others to the accommodated worker.
- ☐ Leave of Absence.
- ☐ Other _____
- ☐ No accommodation is granted because the unvaccinated worker would likely pose a direct threat to themselves or others.
- ☐ No accommodation is granted because accommodation presents an undue burden on the employer.

Worker Name: _____ Date: _____

Employer Representative: _____ Title: _____

- ① [Unlock the key to NYC](#)
- ① [Get the latest on the COVID-19 Vaccine](#)
- ① [Agency service suspensions/reductions](#)

NYC Health

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Promoting and Protecting the City's Health



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COVID-19: Vaccine

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Businesses and Schools

Posters and Flyers

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Proof of COVID-19 vaccination is needed wherever you work.


[Main Page](#) [Key to NYC](#) [Workplace Requirement](#) [Vaccine Facts](#) [Data](#)

Vaccination Requirement: Workplaces

As of December 27, workers in New York City who perform in-person work or interact with the public in the course of business must show proof they have received at least one dose of a COVID-19 vaccine. Workers will then have 45 days to show proof of their second dose (for Pfizer or Moderna vaccines).

Businesses may not allow any unvaccinated workers to come to their workplace. A workplace is considered any location — including a vehicle — where you work in the presence of at least one other person.

You can show you have received the COVID-19 vaccine with the same [proofs of vaccination that are accepted for Key to NYC](#).

- [Commissioner's Order Requiring COVID-19 Vaccination in the Workplace](#) (PDF, December 13, 2021)
Other Languages: [Español](#) | [Русский](#) | [繁體中文](#) | [简体中文](#) | [Kreyòl ayisyen](#) | [한국어](#) | [বাংলা](#) | [Italiano](#) | [Polski](#) | [العربية](#) | [יידיש](#) | [Français](#) | [اردو](#)
- [Private Sector Vaccine Requirement: Frequently Asked Questions](#) (PDF, December 23, 2021)
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- [Guidance on Accommodations for Workers](#) (PDF)
Other Languages: [Español](#) | [Русский](#) | [繁體中文](#) | [简体中文](#) | [Kreyòl ayisyen](#) | [한국어](#) | [বাংলা](#) | [Italiano](#) | [Polski](#) | [العربية](#) | [יידיש](#) | [Français](#) | [اردو](#)
- [Guidance for Employers on Equitable Implementation of COVID-19 Vaccine Requirements](#) (PDF)
- [Guidance for Public Accommodations on Equitable Implementation of COVID-19 Vaccine Requirements](#) (PDF)
- [Private Sector Vaccine Requirement: Flyer for Business Owners](#) (PDF)
Other Languages: [Español](#) | [Русский](#) | [繁體中文](#) | [简体中文](#) | [Kreyòl ayisyen](#) | [한국어](#) | [বাংলা](#) | [Italiano](#) | [Polski](#) | [العربية](#) | [יידיש](#) | [Français](#) | [اردو](#)
- [Vaccination Requirements for Nonpublic Schools](#) (PDF)
Other Languages: [Español](#) | [Русский](#) | [繁體中文](#) | [简体中文](#) | [Kreyòl ayisyen](#) | [한국어](#) | [বাংলা](#) | [Italiano](#) | [Polski](#) | [العربية](#) | [יידיש](#) | [Français](#) | [اردو](#)

Information for Businesses

Businesses must verify each worker's proof of vaccination. There are three options for how businesses can meet this requirement:

1. A worker's record can be a copy of their proof of vaccination or a record of a reasonable

- accommodation with supporting documentation.
2. Businesses can create their own paper or electronic record that includes the following information for each worker:
 - Worker's name
 - Whether the worker is fully vaccinated
 - For workers who submitted proof of the first dose of a two-dose vaccine, the date by which they can provide proof of a second dose (no later than 45 days after submitting proof of the first dose)
 - Record of reasonable accommodation with supporting documentation

3. Businesses may check each worker's proof of vaccination before they enter the workplace each day. They must keep a record of each verification.

Non-employee workers, such as contractors, must provide vaccination proof to their employers. Businesses may request that a contractor's employer confirm proof of vaccination. Businesses must then keep a log of these requests and the confirmations they receive.

Businesses must have completed the below certificate affirming they are in compliance with this requirement and post it in a public place.

- [Affirmation of Compliance with Workplace Vaccination Requirements](#) (PDF)

Businesses should be prepared to make their records available for inspection, consistent with applicable law.

Small businesses that would like help with this requirement can call the NYC Department of Small Business Services hotline at 888-SBS-4NYC (888-727-4692).

To review vaccine requirements already in place that also may impact your business or employees, visit [COVID-19 Commissioner Orders and Advisories](#).

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M S D S

MATERIAL SAFETY DATA SHEETS



**CITY OF NEW YORK
DEPARTMENT OF SANITATION**

REVISED 1

RIGHT-TO-KNOW 2015

RIGHT-TO-KNOW INFORMATION CONTACTS

NYC DSNY Division of Safety and Training (Director's Office)	(718) 758-7948
NYC DCAS Citywide Occupational Safety and Health	(212) 386-6251
NYS Department of Health - Bureau of Occupational Health	(518) 402-7900
NYS Department of Labor - Division of Safety and Health	(212) 775-3548
NYS Attorney General's Office - Department of Law - Labor Bureau	(212) 416-8700

RIGHTS AND RESPONSIBILITIES

Two informational posters must be displayed at each DSNY work location:

- (1) "YOU HAVE A RIGHT TO KNOW! Your employer must inform you of the health effects and hazards of toxic substances at your work site..." and
- (2) "State of New York, Department of Labor - Labor Law Information Relating to Public Employees: Job Safety and Health Protection."

You have the right to information about the possible hazards of substances found in your workplace. Health hazard information is contained in a Safety Data Sheet (SDS) or a Chemical Fact Sheet. These sheets must be available to you at your work location. They are collected in a SDS Reference Binder, or via the DSNY intranet.

You have the right to current information. If an SDS you consulted was prepared more than three years earlier, you should consider the SDS outdated. To obtain the latest SDS, you must complete a "Right-to-Know Information Request Form" and submit it to your supervisor.

Your supervisor is responsible for responding to your request for information. If your supervisor does not provide you with the requested SDS or Chemical Fact Sheet within 72 hours (three business days), you may refuse to work with that product until the information is made available.

The agency's written Hazard Communication Program is included in the SDS Reference Binder, or on the DSNY intranet. You have the right to receive a copy this Program for review. A copy of the Program can also be requested from the Division of Safety and Training.

You must receive Right-to-Know training upon initial appointment, annually thereafter, and before a new toxic substance may be introduced into your workplace.

You have the right to file a complaint regarding what you believe to be unsafe or unhealthful conditions in your workplace or violations of the NYS Right-to-Know Law. Complaints may be filed with the NYS Department of Labor or the NYS Attorney General's Office.

Your employer may not discriminate against you in retaliation for exercising any of your rights.

Employers must keep a record of the name, address, and social security number of every employee who handles or uses a substance or substances included in section 1910 of the federal occupational safety and health regulations, subparagraph z and which such substance or substances was or were handled or used by which employee. These records (DS1790 Toxic Handling List) must be kept for forty (40) years.

Supervisors are responsible for ensuring that all products and containers that contain toxic substances (except transfer containers and pipes/piping systems) are properly labeled with (1) the name of the product, (2) the manufacturer's name and address, (3) a listing of the hazardous ingredients, and (4) an appropriate health hazard warning.

1/21/22, 2:25 PM

DSNY - Field Dashboard

Date: 1/5/2022 9:51 AM

Code: SAF7

Subject: SAFETY DATA SHEET

A Safety Data Sheet (formerly known as Material Safety Data Sheet) ("SDS") is a detailed informational document prepared by all manufacturers or importers of natural or man-made chemical products. SDS describes each product's physical and chemical properties as well as useful information such as recommended PPE, procedures for spills and leaks, storage guidelines, and exposure control.

OSHA/PESH requires that SDSs be available to employees for all chemical substances handled in the workplace under the Hazard Communication regulation. The SDS is also required to be made available to local fire Departments and local and state emergency planning officials under Section 311 of the Emergency Planning and Community Right-to-Know Act. As of June 1, 2015, chemical manufacturers, distributors or importers are required to provide the new SDS in a uniform format that include numbers, headings and associated information.

To comply with this federal regulation and to have knowledge of all chemical substances at DSNY, The Regulatory Compliance Unit, in conjunction with Bureau of Information Technology (BIT) has developed an online SDS database on the intranet page. The SDS database contains a complete list of all chemicals used by DSNY. Employees can search and obtain information on a particular chemical product by manufacturer or brand name.

The SDS database has been active on the DSNY intranet page as of December 18th, 2017. You can access it, under the (Safe Data Sheet document heading).

If you have any questions regarding the SDS site or if you believe a particular chemical product is missing from the list, please contact Harry Zhou via email at hazhou@dsny.nyc.gov or by phone at (718) 758-7950 and he can assist you.

Salvatore Ceraulo
First Deputy Commissioner

1/21/22, 2:24 PM

DSNY - Field Dashboard

Date: 12/3/2021 10:00 AM

Code: SAF9 (rev 6/8/16)

Subject: TOXIC SUBSTANCE HANDLING LIST/RIGHT TO KNOW

To ensure compliance with N.Y.S. Public Employees' Safety and Health Protection Laws, all BCC, SWM, BME & BBM Location Supervisors are required to:

1. List the names, titles, and social security numbers of employees working with toxic substances. Use the DS1790 form - Safety Toxic Handling List.

Upon completion of this form, you must keep it on file for review by Dept. of Labor and/or Citywide Occupational Safety & Health Inspectors.

The DS 1790 must be updated whenever there is a change in employee status or when there are additional toxic substances added or deleted from a location.

2. You must ensure that "N.Y.S. Right to Know" posters and "N.Y.S. Dept. of Labor Public Employees' Job Safety and Health" posters are prominently displayed at all times. The garage or unit supervisor must indicate the following information on the bottom of the "Right to Know" poster:

Name: Harry Zhou in Safety
Telephone # 718-758-7950

3. Garage Supervisors and Unit Supervisors, where appropriate, are responsible to maintain an updated "Material Safety Data Sheet Binder" (MSDS) and must make it available on all shifts. If a requested MSDS is not available, it can be acquired from the DSNY Manuals Option on the DSNY intranet site or you can contact Harry Zhou.

Borough Offices, SWM Headquarters, BBM Headquarters & BME Field Operations are to make arrangements to pick up a sufficient number of DS 1790's and posters at the Division of Safety & Training, Ronald DiCarlo Training Academy at Floyd Bennett Field.

If you have any questions call Harry Zhou at (718) 758-7950 or email: hazhou@dsny.nyc.gov

*****REMEMBER***** YOU HAVE A "RIGHT TO KNOW"!! *****

Salvatore Ceraulo
First Deputy Commissioner



**THE CITY OF NEW YORK
DEPARTMENT OF SANITATION
POLICY AND ADMINISTRATIVE PROCEDURE
2021-02**



EFFECTIVE DATE: September 13, 2021
SUBJECT: COVID-SAFE POLICY
AFFECTED DIRECTIVES: N/A
REFERENCE: Executive Order 78 of 2021 (dated August 31, 2021)

INTRODUCTION

Pursuant to Executive Order 78, issued by Mayor Bill de Blasio on August 31, 2021, all Department employees are required to provide one-time proof of COVID-19 vaccination or proof of a weekly negative COVID-19 PCR test beginning on September 13, 2021.

These provisions describe the procedures for providing proof of vaccination or weekly negative tests, and they permit employees to take paid excused leave for a sufficient period of time, not to exceed three (3) hours per week, to receive a COVID-19 PCR test.

Department employees who fail to comply with the requirements of this Policy and Procedure (PAP) will be placed in Leave Without Pay (LWOP) status.

DEFINITIONS

Department employee: Any employees of the New York City Department of Sanitation, regardless of title, including part-time and seasonal employees.

Excused leave: A paid leave of absence to include travel time to and from a testing or vaccination location.

Qualifying test: A polymerase chain reaction (PCR) test processed by medical professionals, including rapid PCR tests. Antigen tests and at-home tests do not qualify for this requirement.

GENERAL PROVISIONS

1. All Department employees must provide proof of COVID-19 vaccination or proof of weekly negative COVID-19 PCR test.
2. Proof of COVID-19 vaccination includes: an official CDC card or other official immunization card bearing the employee's name and date(s) of vaccination or a photograph of such card; an Excelsior Pass issued by the State of New York; or the NYC COVID SAFE app that clearly displays an image of the CDC card or other official immunization card with the above noted requirement.
3. Proof of negative COVID-19 PCR test must be submitted weekly via the online portal or to an employee's timekeeper or supervisor. Only qualifying tests may be used for this purpose.

4. Department employees are eligible for up to three (3) hours per week of excused leave for the purposes of receiving a weekly COVID-19 PCR test. Excused leave must be taken at the end of the shift and will be provided only at the discretion of a supervisor. If an employee requires more than three (3) hours to undergo testing, no additional excused leave will be provided, and the employee will not be compensated for the additional time.

5. Department employees who fail to comply with the requirements of this PAP will be placed in Leave Without Pay status until they comply. Employees who fail to comply may be subject to disciplinary action.

PROCEDURES

All Department employees must provide proof of COVID-19 vaccination or proof of weekly negative COVID-19 PCR test.

COVID-19 Vaccination

Department employees may submit proof of COVID-19 vaccination to Human Resources and the Medical Division through the online DSNY COVID Vaccine portal. Field employees or those without regular access to a computer may choose to email or hand in their proof of vaccination to their timekeeper or supervisor for the limited purpose of having the timekeeper or supervisor submit the proof on their behalf. All employee vaccination documentation will be treated confidentially.

Proof of COVID-19 vaccination includes an official CDC card or other official immunization card bearing the employee's name and date(s) of vaccination or a photograph of such card; an Excelsior Pass issued by the State of New York; or the NYC COVID SAFE app that clearly displays an image of the CDC card or other official immunization card with the above noted requirement.

Department employees who have previously provided proof of vaccination to Human Resources or the Medical Division do not need to resubmit proof of vaccination.

Weekly COVID-19 Testing

Department employees may submit proof of weekly negative COVID-19 test results to Human Resources and the Medical Division through the online DSNY COVID-SAFE portal. Only qualifying polymerase chain reaction (PCR) tests may be used for this purpose. Field employees or those without regular access to a computer may choose to email or hand in their test information to their timekeeper or supervisor for the limited purpose of having the timekeeper or supervisor submit the test information on their behalf. All employee test results will be treated confidentially.

Employees who test positive for COVID-19 should contact the Health Care Facility via the COVID-19 Hotline at (212) 437-4655.

For the purposes of this policy, weekly testing means that a Department employee is required to submit the result of a test taken once every seven calendar days. An employee who has been tested within the preceding seven days, but is still waiting for the result may report to work with a pending test result as long as they meet the criteria of the health screening, and provided that the test result is submitted to Human Resources and the Medical Division as soon as it becomes available.

Tests are widely available *at no cost* to individuals across dozens of City-sponsored test sites. A list of City-sponsored test sites is attached to this PAP (updated as of September 9, 2021), and an updated list is available at <https://www.nychealthandhospitals.org/covid-19-testing-sites/>. Private providers *may charge for testing or charge a co-pay*. Employees are strongly encouraged to ask about associated costs before being tested. Most providers across the City will attempt to bill insurance for test collection.

Department employees are eligible for up to three (3) hours per week of excused leave for the purposes of receiving a weekly COVID-19 PCR test. Where feasible, an employee should contact their supervisor at least two (2) days in advance of testing to schedule excused leave. If an employee requires more than three (3)

hours to undergo testing, no additional excused leave will be provided, and the employee will not be compensated for the additional time. To qualify for excused leave, the date of the qualifying test must be the same as the date the employee requests excused leave.

Employee vaccination and testing information must be kept private and secure and may only be shared with designated agency staff and City officials.

Failure to Comply

Employees who fail to comply with this policy will be placed in Leave Without Pay (LWOP) status until they provide either proof of COVID-19 vaccination or proof of weekly COVID-19 PCR test result. Employees who fail to comply with this policy may also be subject to disciplinary action.

ISSUING AUTHORITY:

A handwritten signature in black ink, appearing to read "Edward R. Grayson", is written over a light gray rectangular background.

**Edward Grayson,
Commissioner**

DISTRIBUTION:

All Management Personnel
This Order must be kept posted at all Department locations until cancelled.

ATTACHMENTS:

List of City-run COVID-19 testing sites (as of September 9, 2021)

seven days, but is still waiting for the result may report to work with a pending test result as long as they meet the criteria of the health screening, and provided that the test result is submitted to Human Resources and the Medical Division as soon as it becomes available.

The Department may provide on-site weekly COVID-19 testing at Department locations. During any period when such on-site testing is provided, employees are not eligible to excused leave for testing. The Department will allow employees to utilize on-site testing during City time and will make accommodations to allow employees to utilize such on-site testing, consistent with operational need. Employees who chose not to utilize on-site testing may seek weekly COVID-19 tests elsewhere; however, these employees must continue to submit proof of a weekly negative COVID-19 PCR test result as described above.

In the event that the Department does not provide or ceases to provide on-site testing at Department locations, employees who are exempt from the vaccination requirement will be eligible for up to three (3) hours per week of excused leave for the purposes of receiving a weekly COVID-19 PCR test. Excused leave may only be used during an employee's regularly-scheduled work shift. Where feasible, an employee should contact their supervisor at least two (2) days in advance of testing to schedule excused leave. If an employee requires more than three (3) hours to undergo testing, no additional excused leave will be provided, and the employee will not be compensated for the additional time. To qualify for excused leave, the date of the qualifying test must be the same as the date the employee requests excused leave.

Employee vaccination and testing information must be kept private and secure and may only be shared with designated agency staff and City officials.

Failure to Comply

Employees who fail to comply with this policy will be placed in Leave Without Pay (LWOP) status until they provide either proof of COVID-19 vaccination or proof of weekly COVID-19 PCR test result. Employees who fail to comply with this policy may also be subject to disciplinary action.

ISSUING AUTHORITY:



**Edward Grayson,
Commissioner**

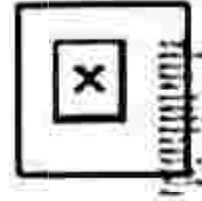
DISTRIBUTION:

All Management Personnel
This Order must be kept posted at all Department locations until cancelled.

Exhibit B

Garage, Queens07A (DSNY)

From: The City of New York <noreply@employeeenews.nyc.gov>
Sent: Wednesday, October 20, 2021 7:23 PM
To: Garage, Queens07A (DSNY)
Subject: Keeping Our City Safe



Dear Colleagues,

There is no greater privilege than serving the people of New York City, and that privilege comes with a responsibility to keep yourself and all New Yorkers safe.

We know vaccinations are critical to protecting our families, friends, and communities, including those that are not yet eligible for the vaccine such as our City's youngest residents. That is why Health Commissioner Dr. Dave Chokshi is signing a Commissioner's Order today to formalize a COVID-19 vaccination mandate for all City workers.

City employees must submit proof of their first vaccination shot by October 29 at 5 PM, with the exception of uniformed correction officers not working in a healthcare setting, who must get their first shot by December 1. You will receive further guidance shortly from your home agency.

Getting vaccinated is safe, free and easy. City employees will be able to receive an extra \$500 in their upcoming paycheck if they receive their first shot today through October 29. If you get your vaccination at a city-run vaccination site, you can also receive an additional \$100.

New York City has led the way against COVID-19 –from fighting for the right to vaccinate frontline workers, to providing nation-leading incentives, to creating the Key to NYC mandate. Now is the time for us to show all New Yorkers the path out of this pandemic and bring us a step closer to a recovery for all.

Thank you for your work each and every day on behalf of New Yorkers. Together, we will end the COVID-19 era.

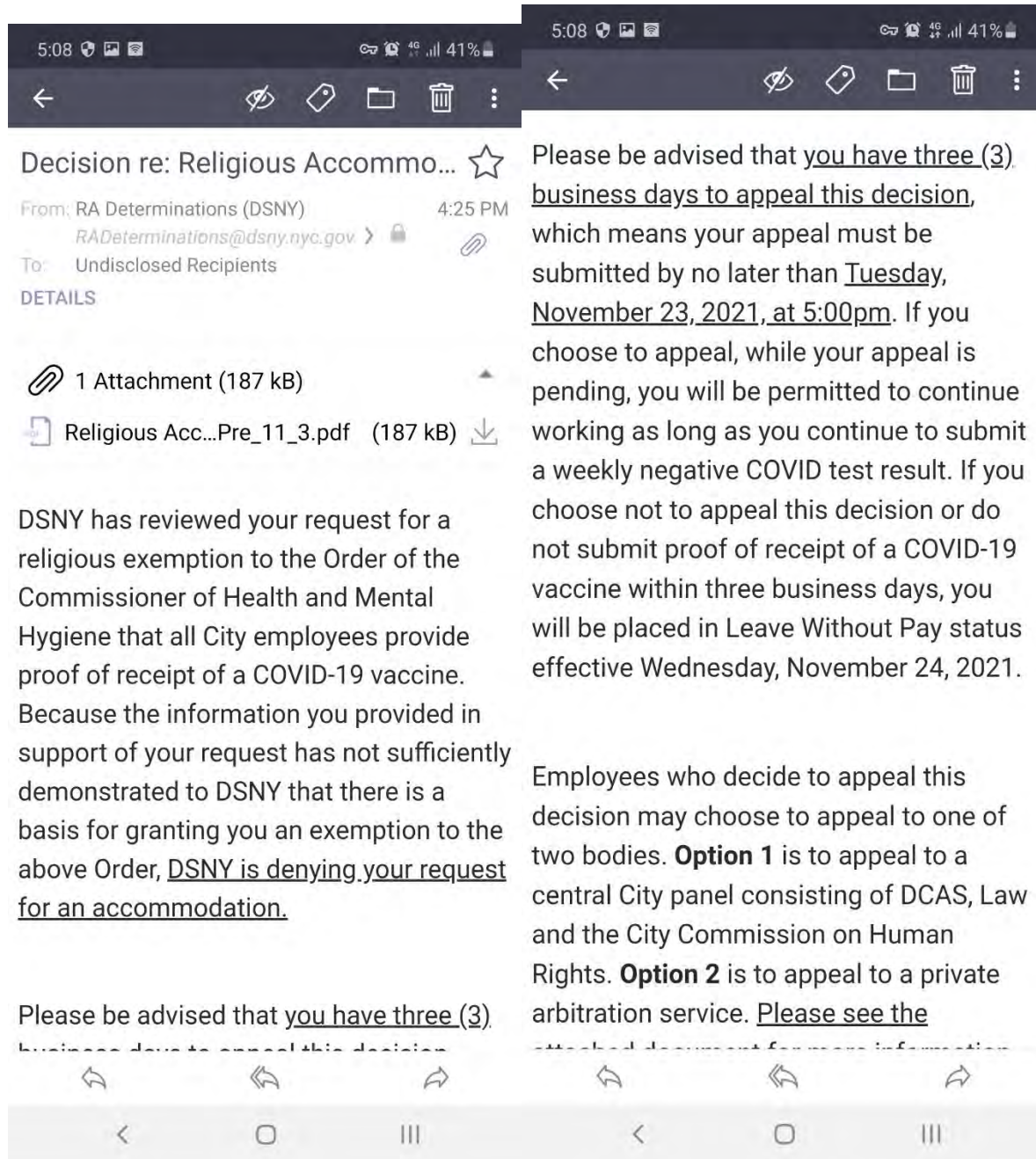
To find a vaccination site, go to nyc.gov/vax4nyc. You can also call 877-VAX-4-NYC (877-829-4692) for help finding a City-run vaccination site. To schedule a free in-home vaccination, visit nyc.gov/homevaccine or call the above number.

Sincerely,

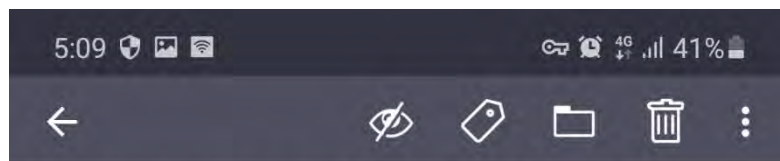
Mayor Bill de Blasio

Please do not reply to this message.

Ex. C
Exemption Denial Email



Ex. C
Exemption Denial Email

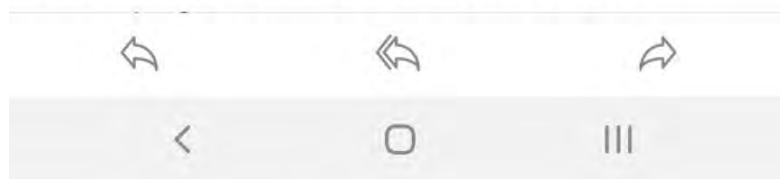


Employees who decide to appeal this decision may choose to appeal to one of two bodies. **Option 1** is to appeal to a central City panel consisting of DCAS, Law and the City Commission on Human Rights. **Option 2** is to appeal to a private arbitration service. Please see the attached document for more information about each option.

If your appeal is granted under either Option 1 or Option 2, you will be permitted to report to work so long as you continue to submit a weekly negative COVID test.

If you choose to appeal, appeals can be made through the following portal using your City email address:

www.nyc.gov/vaxappeal. You must provide all requested information and documentation to the appeal portal and choose Option 1 or Option 2 for your





sanitation

Edward Grayson Commissioner

DENIAL OF RELIGIOUS EXEMPTION APPEAL INFORMATION

DSNY has reviewed your request for a religious exemption to the Order of the Commissioner of Health and Mental Hygiene that all City employees provide proof of receipt of a COVID-19 vaccine. Because the information you provided in support of your request has not sufficiently demonstrated to DSNY that there is a basis for granting you an exemption to the above Order, DSNY is denying your request for an accommodation.

Please be advised that you have three (3) business days to appeal this decision, which means your appeal must be submitted by no later than Tuesday, November 23, 2021, at 5:00pm. If you choose to appeal, while your appeal is pending, you will be permitted to continue working as long as you continue to submit a weekly negative COVID test result. If you choose not to appeal this decision or do not submit proof of receipt of a COVID-19 vaccine within three business days, you will be placed in Leave Without Pay status effective Wednesday, November 24, 2021.

If you choose to appeal, appeals can be made through the following portal using your City email address: www.nyc.gov/vaxappeal. You must provide all requested information and documentation to the appeal portal and choose one of two options below for your appeal. **If you do not have a City email address or access to a computer and wish to appeal, you must send an email to Appeals@dsny.nyc.gov with your name, reference number, phone number, name of your union, and appeal option selected (1 or 2), and OEDI will submit your appeal on your behalf.**

Option 1

Employees may choose to appeal to a central City panel consisting of DCAS, Law and the City Commission on Human Rights. Appeals will be decided based on the documentation submitted to DSNY, and there shall be no live hearing.

If your appeal is granted by the City panel, you will be permitted to report to work so long as you continue to submit a weekly negative COVID test.

Option 2

As an alternative to submitting your appeal to the City panel, employees may choose to appeal to Scheinman Arbitration and Mediation Services (SAMS), subject to the terms set forth below:

- Employees shall be required to affirmatively waive their individual right to seek an accommodation through any other legal means or process or to bring a legal challenge to the process or the denial of an accommodation request, except the employee may bring an Article 75 appeal.

- SAMS will only grant appeals based on religious exemptions if it is in writing by a religious official (e.g., clergy). Requests shall be denied where the leader of the religious organization has spoken publicly in favor of the vaccine, where the documentation is readily available (e.g., from an online source), or where the objection is personal, political, or philosophical in nature. Exemption requests shall be considered for recognized and established religious organizations (e.g., Christian Scientists).
- A panel of arbitrators identified by SAMS shall hear these appeals and may request that the employee or DSNY submit additional documentation. The assigned arbitrator may also request information from City doctors as part of the review of the appeal documentation. The assigned arbitrator, at his/her discretion, will either issue a decision on the appeal based on the documents submitted or hold an expedited (virtual) factual hearing. If the panel requests a factual hearing, the employee may elect to have a union representative present but neither party shall be required to be represented by an attorney at the hearing. The City will be represented at the hearing by attorneys from the Office of Labor Relations and/or the NYC Law Department. The expedited hearing shall consist of brief opening statements, questions from the arbitrator, and brief closing statements. Cross examination shall not be permitted. Any documentation submitted at the Arbitrator's request must be provided to DSNY at least one business day before the hearing or the issuance of the written decision without hearing.

If your appeal is granted by the arbitrators, you will be permitted to report to work so long as you continue to submit a weekly negative COVID test.

EXHIBIT D
Affidavit J. Rullo



Receipt of Reasonable Accom... ☆

From: NYC Employee Vaccine Appeals
vaxappeal@dcas.nyc.gov
To: jvr1982@protonmail.com

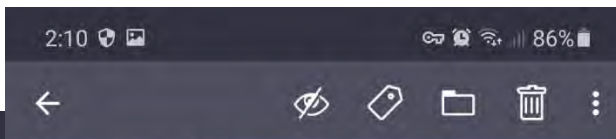
2:02 AM

DETAILS

Your appeal is now under review. If further information is required from you concerning your appeal, you will be contacted via your work email address or by your agency EEO officer.

Appeals will be reviewed on a rolling basis with decisions issued as promptly as possible. Your appeal will be considered as promptly as possible and may take several weeks.

If you requested your reasonable accommodation from your agency on or before October 27, 2021, and you opted to appeal the decision, then while your



Your appeal is now under review. If further information is required from you concerning your appeal, you will be contacted via your work email address or by your agency EEO officer.

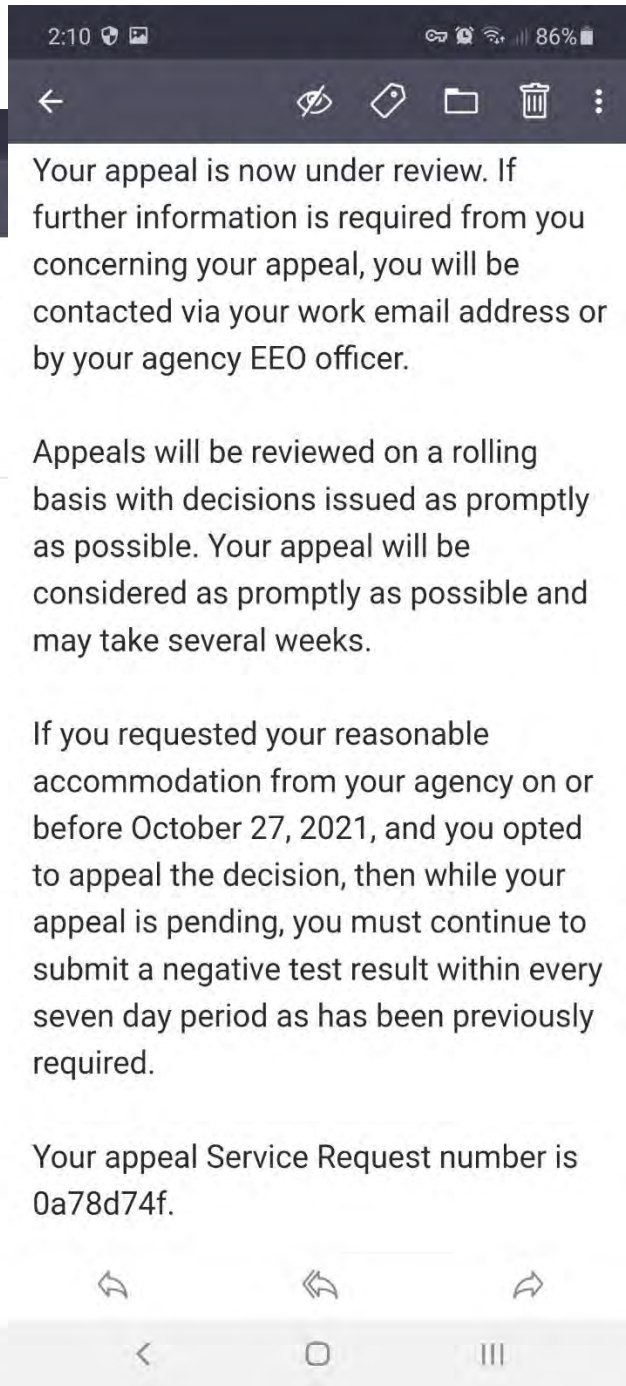
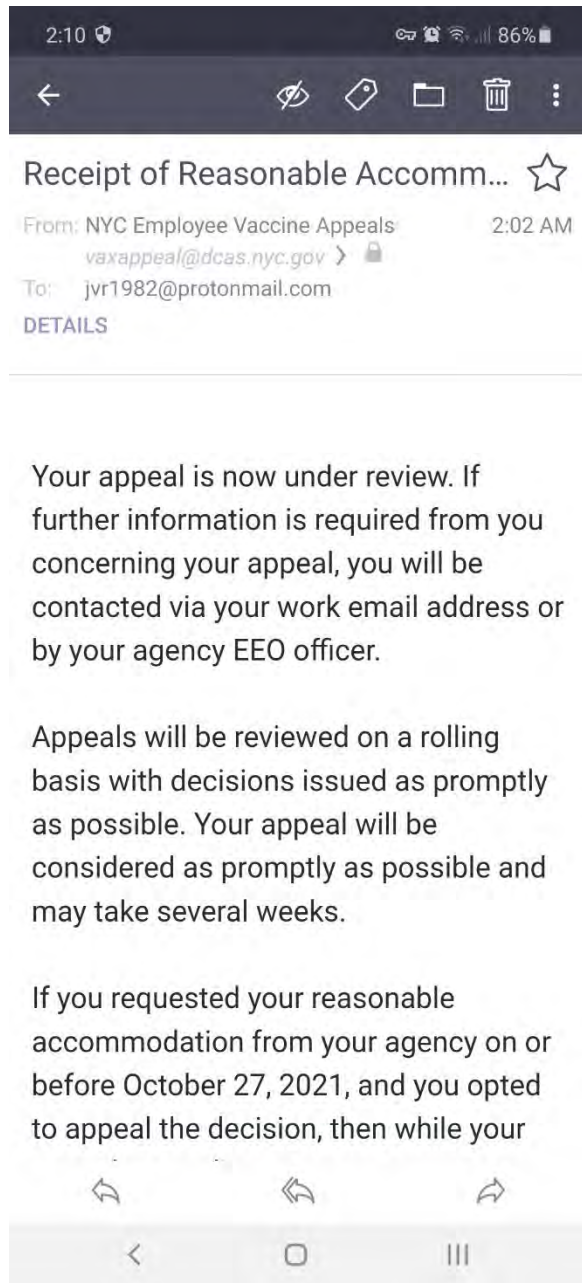
Appeals will be reviewed on a rolling basis with decisions issued as promptly as possible. Your appeal will be considered as promptly as possible and may take several weeks.

If you requested your reasonable accommodation from your agency on or before October 27, 2021, and you opted to appeal the decision, then while your appeal is pending, you must continue to submit a negative test result within every seven day period as has been previously required.

Your appeal Service Request number is 0a78d74f.



EXHIBIT D
Affidavit J. Rullo



8. On August 26, 2021 I called Milangely Lopez per the email and began to explain to her that I did not like how things were going with regards to the vaccine and that I wanted to file for a religious exemption due to my sincerely held belief in our lord Jesus Christ. At that time there was no mandate, therefore she stated that there was no need to file anything at the time and not to worry. The conversation was kept to a minimum. I hung up and that was the end.
9. As expected, on August 31, 2021, Mayor De blaiso announced via an all City press release that due to the rapidly spreading the variant of the Covid-19 and based on the CDC recommendations, that all New York City employees and contractors were required to either provide proof of vaccination or a negative Covid-19 test beginning September 13, 2021. I learned about the announcement watching New York City TV news. But found the press release online - See Exhibit D
10. Finally, on September 9, 2021 I received an email at 6:31 pm regarding weekly testing and information on the vaccine and protocols regarding the pandemic. Please see **Exhibit E**
11. Then on October 20, 2021, New York City Department of Health (DOH) Commissioner, David Section 3.01(d) of the Health Code, David A. Chokshi, MD, MSc, issued a DOH Executive Order that required City Employees and contractors to only provide proof of vaccination by October 29, 2021 and no reference to the option to provide a negative Covid-19 test was provided in the order. See **Exhibit F**
12. Consequently, on October 20, 2021, I emailed Belinda French, the EEO officer at 9:30 am, requesting a meeting. The meeting took place via phone call at 1:30 pm, at that moment I express to her my sincerely held belief and that I wanted to file for a reasonable accommodation based on religious exemption against taking the COVID-19 vaccine, later that day at 2:13 pm I received an email back with the reasonable accommodation form and instructions. Please see **Exhibit G & H**.
13. On October 21, 2021 I received an email and attachment from HR, stating that "Beginning November 1st, employees who have not provided proof of vaccination against COVID-19 will be placed on Leave Without Pay (LWOP) and be subject to termination of employment. Employees have until October 29th, 2021 to provide Human Resources with proof of vaccination or, until October 27th, 2021 to submit a request for a reasonable accommodation." See **Exhibit I & J**
14. In addition, in the same email, HR attempted to coerce me into getting vaccinated by offering \$600 for complying. If I refused, the consequence would be LWOP. I found this coercion unprofessional and a blatant disregard to all people seeking religious exemption.
15. On October 22, 2021 I submitted my Reasonable Accommodation Request, to the DCAS EEO office, with a written statement outlining my sincerely held religious belief per "Title VII of the Civil Rights Act of 1964, individuals have the right to be free from discrimination on the basis of religion. As part of their religious beliefs, many individuals object to vaccines." and that As a **practicing**

Christian in a covenant relationship with GOD taking the vaccine violates that covenant with GOD as goes against GOD's commandments for me.

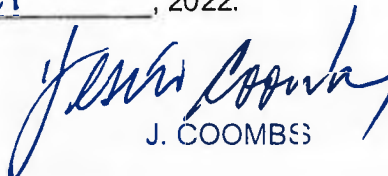
16. On October 26, 2021 I received a call from Milangely Lopez, Investigator at about 11:40 am, Mrs Lopez stated this was an intake conversation and not an interview, she then proceeded to ask a series of questions regarding my written statement and to clarify the phrase "Covenant relationship with **GOD**", I then proceed to explain my sincerely held religious beliefs. The call took about 15 minutes. At no point in our conversation did Ms. Lopez explains or offers me any type of accommodations available to me. Please see **Exhibit K**
17. At no time during the call did Mrs Lopez consider modifying my workplace, including continuing to allow me to work remotely as a workplace modification that would allow me to remain in my unvaccinated state and work while also maintaining a safe workplace for myself and other employees. Nothing was offered to me by DCAS HR other than the requirement to get vaccinated as a means to stop the spread of the Covid virus in the DCAS building that I was working in at the time.
18. On October 28, 2021, I received another email, which I felt was harassing and coercive, stating that "DCAS employees must submit proof of their first COVID-19 shot to Human Resources by October 29, 2021 at 5pm. DCAS employees who do not comply with this requirement will be placed on leave without pay effective Monday, November 1, 2021." Please see **Exhibit I & J**
19. On November 4, 2021, I received an email from HR stating that employees who are awaiting a determination on or have been granted a reasonable accommodation request are required to submit a weekly test. My reasonable accommodation was not granted to continue to work, while being tested and wearing protective gear. Please see **Exhibit K**.
20. On December 6, 2021, I received an email where Belinda French clearly revealed that the conversation with Melangely Lopez illegally violated my right to privacy. When my conversation with Ms. Lopez was initiated, she stated our conversation was not being taken as a statement but just an intake and that she was just going over what I wrote for her to have a clear understanding of my sincerely held religious beliefs. As an intake, I thought Ms. Lopez was attempting to work with me in good faith to seek a means or tool that would maintain a safe workplace without me having to take the vaccine. Ms. Lopez however, deceived me and misconstrued my conversation that was not established as being admitted as an official record. Please see **Exhibit L, paragraph 4**. Had I known my responses during this phone conversation were being taken as an official record, I would have asked her to simply refer back to my letter so my words would not be misconstrued.
21. On December 6, 2021, I received a denial of my request to be exempted from the DOH vaccine require, which was included in the email from Belinda French **Exhibit L, paragraph 7**, she states based on the information provided and after careful consideration, the office determined that I did not provide sufficient testimony to demonstrate that I had a sincerely held religious observance, belief or practice that would qualify for a religious exemption to the COVID-19 vaccine mandate. However, I provided EEO with 4 testimonies from people who know me between 5 and 50 years in addition to my own testimony with my appeal as to my sincerely held religious beliefs. Please see **Exhibit M**.

22. In the denial, I was offered to appeal the decision as part of the administrative process.
23. Prior to sending my response to the denial, I was given the choice to either have my response reviewed by a panel consisting of the DCAS, Law department and the NYC Commission of Human Rights (called the City-wide Panel) or by an arbitrator. See **Exhibit N**. I decided to have my application reviewed by the panel. See **Exhibit O**.
24. I submitted an appeal to the DCAS City-wide panel and I included in my appeal to the EEO my medical records of my God given immunity to Covid 19, which further supports my case that I don't need to take the Covid 19 vaccine for an immunity that God himself has given me. The test shows that my antibody levels for Covid 19 are higher than the antibody levels of a person with the Covid 19 vaccine. See **Exhibit P**.
25. I was only given 3 days to respond to the denial, not sufficient time for a person who has to work full time, take care of a family and other obligations.
26. On December 21, 2021 before receiving an email informing me I was either exempted or denied for my religious accommodation, I was informed by Cris De La Rosa, our Chief of Staff, that I was on the list for employees being placed on LWOP. I immediately reached Belinda French to question this information. See **Exhibit Q**. Belinda stated there was an error in the list and she would reach out to HR regarding the matter.
27. On January 5, 2022 I received an email from Belinda French stating she received an email that informed her my appeal was denied. Upon further investigation into the email, I realized the email originated from noreply@salesforce.com on behalf of NYC Employee Vaccine Appeals vaxappeal@dcas.nyc.gov. Please see **Exhibit R & S**.
28. On January 6, 2022 I requested via email once again to be provided with the reason why my reasonable accommodation exemption was denied. I have yet to receive a reason. In addition, I asked why I was being punished by being placed on LWOP when the new Mayor's address on January 1 or 2, 2022 stated that punitive action will not be taken. I received no response to this question. Furthermore, I asked if I could see or speak with someone to see what all this meant for me and my family and I once again, did not receive a response or the support I requested. Please see **Exhibit T**.
29. On January 13, 2022, I was placed on Leave without Pay (LWOP) because I continued to refuse the vaccine based on my religious sincerely held belief.
30. Then, on January 21, 2022 at 6:14 pm, I received an email from Shameka Blount, DCAS Executive Director, Administration stating that I must comply with the with the Vaccine mandate or I will be terminated from my employment with DCAS " Compliance with the vaccination mandate is a condition of your continued employment with the City. If you do not provide proof of vaccination, your employment with the City will be terminated effective February 11, 2022." however this was never a condition of my original employment, and I was not aware that that can change without my consent or knowledge.

31. Because I am the sole financial support of my family I was very upset and also fearful of losing my salary and entire career and harming my family.
32. Since being placed on LWOP, I suffered from headaches from anxiety and had sleepless nights worried about how I would take care of my family. I spent nights praying to the Lord to cause the city to lift the requirement for me to get vaccinated. I prayed to God daily for courage to obey what the Bible, the word of God, calls all believers to do and that is to treat my body like the temple of God and not put unnatural substances in my body.
33. While I cried to God for the days leading up to February 11, 2022, I also had great fear that I was not doing my duty before God to take care of my family. This emotional conflict caused me so much anxiety that I asked God for forgiveness and I went ahead and took the Covid-19 on February 11, 2022 after having my salary withheld for a month.
34. I sent my vaccine card to the DCAS and I was allowed to return to work on February 15, 2022.
35. Since returning to work and speaking to other employees, I have learned that other DCAS employees did receive exemptions from the vaccine and were allowed to continue to work based on their religious beliefs, without being placed on LWOP.
36. Having learned that other employees were given exemptions and not placed on LWOP, I have experienced feelings of guilt for having gone against my religious beliefs when others were given exemptions. My anger, guilt and resentment toward DCAS is so great that I suffer from anxiety and headaches from having let my God down and allowing myself to be coerced into going against my God for a job.
37. I pray daily for forgiveness to deal with the anger and resentment and emotional anguish I feel toward DCAS for forcing me to have to choose between my God, my family and this job. I feel horrible all the time. I pray for peace daily.

I declare under penalty of perjury under the laws of the State of California, where I am temporarily residing to receive emotional help and support, that the foregoing is true and correct.

Dated this 18th day of April, 2022.


J. COOMBS

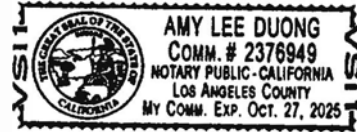
A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

Subscribed and sworn to (or affirmed) before me on this 18 day of Apr. 1, 2022, by J. COOMBS, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Witness my hand and official seal.

Signature of Notary Public

[Affix Notary Seal]



From: [Jesus Coombs \(DCAS\)](#)
To: [Human Resources \(DCAS\)](#)
Cc: [Cris De La Rosa \(DCAS\)](#)
Subject: RE: Notice of Appeal determination
Date: Wednesday, January 12, 2022 2:38:57 PM
Attachments: [image004.png](#)

Good afternoon,

Thank you for your email.

I want to be clear that I **did not** received the following, per email below;

1. The reason for the denial from the Panel (salesforce or vaxappeal) (please explain).
2. Given any information as to what does it mean to be on leave without pay (please explain).
3. No further resources, counseling or options have been given to me, other than Take the Vaccine or else(please explain). .
4. Nor the **Law Department** or the **NYC Commission on Human Rights** (please explain).

The only thing I received from EEO was that the panel had denied the appeal without a reason or statement, though I have requested this information (please explain).

Jesús Coombs, RA, AIA, NCARB | Chief Architect, Construction & Technical Services
P: (212) 386-0487 | C: (347) 947-0285 | jcoombs@dcas.nyc.gov



From: Human Resources (DCAS) <humanresources@dcas.nyc.gov>
Sent: Wednesday, January 12, 2022 12:54 PM
To: Jesus Coombs (DCAS) <jcoombs@dcas.nyc.gov>
Cc: Cris De La Rosa (DCAS) <CDELAROSA@dcas.nyc.gov>
Subject: RE: Notice of Appeal determination

Good afternoon Mr. Coombs,

After confirming with EEO, your Reasonable Accommodation Denial still stands. You will be placed on Leave Without Pay as of 1/13/2022.

Regards,

Human Resources
NYC Department of Citywide Administrative Services
HumanResources@dcas.nyc.gov

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From: Jesus Coombs (DCAS) <jcoombs@dcas.nyc.gov>
Sent: Thursday, January 6, 2022 12:25 PM
To: Human Resources (DCAS) <humanresources@dcas.nyc.gov>
Cc: Cris De La Rosa (DCAS) <CDELAROSA@dcas.nyc.gov>
Subject: Notice of Appeal determination

Good afternoon,

I am waiting for an HR notification for possible LWOP, as I received an email yesterday, January 5th regarding a denial of my appeal for reasonable accommodations, for a religious exemption from taking the COVID-19 Vax. This notification was without any explanation or time to digest what is going on, how can I or will be placed on LWOP when due process has not been fully afforded to me. Also, I did not received official correspondence from any outside party nor did I received and explanation as to the denial.

I thought that on January 1 or 2, 2022 during the new Mayor's address of the current situation, that punitive action will not be taken. As such being placed on LWOP seems to be the case.

Can I please see or speak with someone about what all this means for me and my family.

Jesús Coombs, RA, AIA, NCARB | **Chief Architect, Construction & Technical Services**
P: (212) 386-0487 | **C: (347) 947-0285** | jcoombs@dcas.nyc.gov



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Jesus Coombs (DCAS)

From: Milangely Lopez (DCAS)
Sent: Wednesday, August 25, 2021 4:12 PM
To: Jesus Coombs (DCAS); Belinda French (DCAS)
Subject: RE: Phone call

Good afternoon,

My name is Milangely Lopez and I am an investigator working with Belinda French in the EEO Office. Belinda is out of the office this week. If you would like, we can schedule a call to see if our office can answer your questions or provide guidance. If you would like to set up a time to speak, I am available tomorrow at 10 am or 12 pm. Please let me know if either of these times work for you or what time would work better.

Thank you,

Milangely Lopez | Investigator, EEO
P: (212) 386-0261 | C: (646) 647-9271 | MilLopez@dcas.nyc.gov

NYC DCAS
Citywide Administrative Services

Follow us on:



From: Jesus Coombs (DCAS) <jcoombs@dcas.nyc.gov>
Sent: Wednesday, August 25, 2021 1:37 PM
To: Belinda French (DCAS) <bfrench@dcas.nyc.gov>
Subject: Phone call

Good afternoon Belinda,

I was wondering when will it be a good time to call you,

I have a few questions.

Please let me know.

Thank you

Jesús Coombs, RA, AIA, NCARB | Architect, Construction & Technical Services
P: (212) 386-0487 | C: (347) 947-0285 | jcoombs@dcas.nyc.gov

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Jesus Coombs (DCAS)

From: Human Resources (DCAS)
Sent: Thursday, September 9, 2021 1:13 PM
To: Employee Relations (DCAS)
Subject: COVID-19 Mandatory COVID-19 Weekly Testing

Follow up: Flag for follow up
Status: Flagged

Our records indicate you have **not** provided proof of full vaccination, therefore you are **required** to submit a negative COVID-19 test result on or by September 13. Going forward, you will be required to submit a negative COVID-19 test each week that was taken within the preceding 7 days. So for example, if you take a test on Friday September 10, you must take your following test **by** Friday September 17.

If you were tested and are awaiting your test results, you may report to work as long as you meet the criteria of the DCAS Health Screening Assessment and provide proof you took the test within the preceding 7 days.

Please note that only PCR tests (both rapid and non rapid) will qualify. At home tests do not qualify.

If by September 13, you have only received one dose of a two dose vaccine, you will not need to submit the results of weekly testing as long as proof of your second dose is provided within 30 days

If necessary, you may take time from your shift to get tested so long as

- Testing is not available at your work location

- Employees assigned to 1 Centre Street have testing outside of north side of the building therefore may not take time from their shift to get tested

- Testing occurs at the beginning or end of your shift

- You work with your supervisor to schedule a time for testing that minimizes impact to your unit's operations

- If getting tested at the beginning or end of your shift is not approved by your supervisor, you must get tested before work, after work, or during the weekend

- You should be tested in a place close to home or your work site

Until further notice, please submit your COVID-19 test results to COVIDTEST@dcas.nyc.gov.

Any DCAS employee who does not comply with this Order may be subject to disciplinary action.

To find a vaccination site near you, please visit www.nyc.gov/vaccinefinder

To find a testing site near you, please visit www.nyc.gov/covidtest

Thank you,
Human Resources

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Jesus Coombs (DCAS)

From: Belinda French (DCAS)
Sent: Wednesday, October 20, 2021 : 4 AM
To: Jesus Coombs (DCAS)
Subject: Re: Request for meeting

Good morning,

I have time today between 1:30 to 3. Do you have a few minutes during that time

Belinda French Diversity EEO Officer
1 - 91 - 9 bfrench@dcas.nyc.gov

From: Jesus Coombs (DCAS) <jcoombs@dcas.nyc.gov>
Sent: Wednesday, October 20, 2021 :30 AM
To: Belinda French (DCAS) <bfrench@dcas.nyc.gov>
Subject: Request for meeting

Good morning Belinda,

I would like to request a meeting with you ASAP.

Please let me know

Thank you

Jesus Coombs, I, C Chief Architect, Construction Technical Services
1 - C 9 - coombs@dcas.nyc.gov



Follow us on



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Jesus Coombs (DCAS)

From: Belinda French (DCAS)
Sent: Wednesday, October 20, 2021 2:1 PM
To: Jesus Coombs (DCAS)
Subject: Reasonable Accommodation Request Form
Attachments: Reasonable Accommodation Request Form 12.2.1.pdf

Follow up: Follow up
Flagged: Flagged

Hi Jesus,

Attached is the reasonable accommodation request form. If your accommodation request related to the vaccination requirement is based on religion, please complete the form and provide the following:

A written and signed statement detailing the religious basis for your objection to the vaccination requirement, including the religious principle(s) that guide your objections, if applicable.

Once I receive your request, I will review and follow up with you to discuss your request in more detail.

Belinda French | Diversity & EEO Officer
P: (212) 386-0297 | C: (917) 828-2369 | bfrench@dcas.nyc.gov

Sent from the Department of Citywide Administrative Services. This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. This footnote also confirms that this email message has been swept for the presence of computer viruses.

Jesus Coombs (DCAS)

From: Human Resources (DCAS)
Sent: Thursday, October 21, 2021 1:44 PM
To: Human Resources (DCAS)
Subject: Vaccination Mandate
Attachments: Vaccination Mandate.pdf

Follow up: Follow up
Status: Flagged

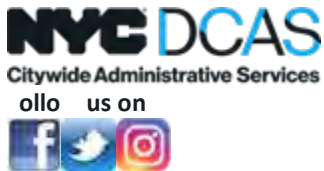
Good evening,

Beginning November 1st, employees who have not provide proof of vaccination against COVID-19 will be placed on Leave Without Pay (LWOP) and be subject to termination of employment. Employees have until October 27th to provide Human Resources with proof of vaccination or, until October 27th to submit a request for a reasonable accommodation.

If you get your first shot between October 20th and October 27th, you will receive \$500 in your upcoming paycheck. Additionally, if you receive your vaccine at a City-run vaccination site, you will receive an additional \$100. Please see the attached letter which provides detailed information.

Thank you.

Human Resources humanresources@dcas.nyc.gov



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Lisette Camilo
Commissioner

Shameka B. Overton
Deputy Commissioner
Administration

October 21, 2021

Dear Colleagues,

NYC Health Commissioner Dr. Dave Chokshi has signed a [Commissioner's Order](#) establishing a vaccination mandate for all City workers. DCAS employees must submit proof of their first COVID-19 shot to Human Resources by October 29th. DCAS employees who do not comply with this requirement will be placed on leave without pay and be subject to termination of employment.

[COVID-19 vaccines are safe and effective](#) in preventing severe COVID-19 illness, hospitalization, and death. Hundreds of millions of COVID-19 vaccine doses have been safely administered in the United States and it is free and easy to [receive a COVID-19 vaccine at locations across the city](#).

If you get your first shot between October 20th and October 29th, you will receive \$500 in your upcoming paycheck. Additionally, if you receive your vaccine at a City-run vaccination site, you will receive an additional \$100. Call 877-VAX-4-NYC (877-829-4692) to find a City-run vaccination site. Every Wednesday through November 17th, from 9:00 a.m. to 5:00 p.m. there will be a City-run [vaccination site in the north mezzanine of 1 Centre Street](#). No appointments are necessary to get vaccinated at 1 Centre Street. If you need to get vaccinated during work hours, City employees can [receive paid leave and compensatory time to get vaccinated](#).

If you have not provided proof of vaccination, it must be provided to Human Resources in person or by emailing a digital copy to humanresources@dcas.nyc.gov. Acceptable proof of vaccination includes:

- An official CDC or other government-issued card bearing the employee's name and date(s) of vaccine administration (a copy must include the front and back of the card).
- A screenshot of an [Excelsior Pass](#) issued by the State of New York (*App available in the Apple App Store and Google Play Store*) containing the employee's name and the section which includes the type of vaccine received and dates administered.
- An image of an official CDC card bearing the employee's name and date(s) of vaccine administration displayed in the NYC COVID Safe App. (*App available in the Apple App Store and Google Play Store*).

Employees who wish to seek a reasonable accommodation and do so on or before October 27th may continue to work, provided they continue to submit weekly negative COVID-19 test results until a determination is made about their reasonable accommodation request. Employees who submit a reasonable accommodation request after October 27th will be placed on leave without pay (LWOP) until a determination is made. Reasonable accommodation requests must be sent to DCAS EEO Officer Belinda French (bfrench@dcas.nyc.gov).

If you have any questions, please contact Human Resources at humanresources@dcas.nyc.gov.

Sincerely,
DCAS Human Resources

The David N. Dinkins Municipal Building
1 Centre Street, New York, NY 10007
nyc.gov/dcas



Lisette Camilo
Commissioner

Shameka B. Overton
Deputy Commissioner
Administration

October 21, 2021

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If you have any questions, please contact Human Resources at humanresources@dcas.nyc.gov.

Sincerely,
DCAS Human Resources



Dawn Pinnock
Acting Commissioner

Belinda French
Diversity & EEO Officer

CONFIDENTIAL

December 6, 2021

Via Email to: jcoombs@dcas.nyc.gov

Jesus Coombs
Architect
Construction and Technical Services

Re: Request for Accommodation

I write in response to your request for a reasonable accommodation based on religion.

On or around October 21, 2021, DCAS provided you with a notice stating that beginning November 1st, employees who have not provide proof of vaccination against COVID-19 will be placed on Leave Without Pay (LWOP) and be subject to termination of employment. The notice further stated that employees have until October 29th to provide Human Resources with proof of vaccination or, until October 27th to submit a request for a reasonable accommodation to avoid being placed on LWOP.

On October 22, 2021, you submitted a request for a religious exemption to the vaccine mandate. In support of your request, you provided a written statement explaining that as a practicing Christian, taking the vaccine violates your covenant with God because "the vaccine was developed from aborted fetal cell lines" and you cannot associate with anything that has to do with abortion.

In your cooperative dialogue with this Office, you asserted that your body is your temple and that you do not feel within your spirit that God wants you to take the vaccine.

Title VII of the Civil Rights Act of 1964 ("Title VII"), the New York State Human Rights Law ("SHRL"), the New York City Human Rights Law ("CHRL") and the Citywide Equal Employment Policy ("Citywide Policy") all impose on an employer the obligation to provide a reasonable accommodation based on an applicant or employee's sincerely held religious observance, practice, or belief unless doing so would cause an undue hardship.

Per Equal Employment Opportunity Commission (EEOC) guidance, a sincerely held religious, moral or ethical belief may be a basis for a religious accommodation. Social, political, or economic philosophies, as well as mere personal preferences, are not religious beliefs protected by Title VII. However, overlap between a religious and political view does not place it outside the scope of Title VII's religion protections, as long as that view is part of a comprehensive religious belief system and is not simply an "isolated teaching."¹

Based on the information provided and after careful consideration, this Office determined that you did not provide sufficient testimony to demonstrate that you have a sincerely held religious observance, belief or practice that would qualify for a religious exemption to the COVID-19 vaccine mandate.

¹ See EEOC guidance, "Section 12: Religious Discrimination" at https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination#h_9546543277761610748655186 (published January 21, 2021).

According to your request, your opposition to the COVID-19 vaccine mandate is based on documented research that the three FDA-approved COVID-19 vaccines (Pfizer, Moderna, and Johnson & Johnson) used aborted fetal cell lines in either the testing or production of the vaccine. Please note that documented research also shows that the while Johnson & Johnson did use a replicated fetal cell line in the production of its vaccine, the Pfizer and Moderna vaccines did not.

Other than its relation to the COVID-19 vaccine, your testimony did not reflect how your opposition to the use of fetal cell lines reflects a comprehensive religious belief system rather than an isolated teaching.

This concludes our processing of your request for an accommodation, and we will notify DCAS Human Resources of this determination.

Please note that you have a have a right to appeal the denial of a reasonable accommodation request. If you would like to submit an appeal for consideration, please carefully review the following instructions, which includes deadlines for submitting an appeal.

Appeals Process

Based on applicable union agreements regarding the Citywide vaccine mandate, an employee who is unvaccinated and who is denied an exemption may appeal within three (3) business days of receipt of the agency determination by selecting one of the two options listed below.

If you wish to appeal the determination on your reasonable accommodation request, please send your written request within three (3) business days of the determination, **on or before Friday, December 10, 2021** to the City's online appeals request portal at <https://www.nyc.gov/vaxappeal>. This online portal requires you to use your NYC work email address. If you do not have an e-mail address or computer access, you can provide the documentation to the DCAS Diversity & EEO office to upload to the portal. Please note that the request for review must include a reason for the appeal.

A written determination will be provided to you and the DCAS EEO Officer.

Appeal Options:

A. Employees may choose to appeal to a central City panel consisting of DCAS, Law and either DOHMH for medical exemptions or the City Commission on Human Rights (CCHR) for religious exemptions, subject to the terms set forth below:

1. The City panel will make appeal decisions on medical and religious requests as required by law;
2. The City panel shall decide the appeals based on the documentation submitted to the Agency and there shall be no live hearing;
3. If the appeal is granted, the Panel will determine the nature of the reasonable accommodation to be provided, based on the nature of the employee's request and input from the employing agency;

4. Employees who submitted their initial reasonable accommodation request to their Agency by end of day on November 2nd, will remain working and on payroll, subject to weekly COVID testing, pending the initial determination of the Agency and/or the determination of the employee's appeal by the City panel. Employees who submit their request after November 2nd but by end of day on November 5th will remain working and on payroll, subject to weekly COVID testing, after the request has been submitted and pending the initial determination of the Agency, but may be placed on Leave without Pay pending appeal. Employees who submit their request after November 5th will be placed on Leave without Pay starting November 1st and will remain on such leave pending the determination of the employee's request.
5. For those employees who have been placed on leave without pay status, if their appeal is granted by the City panel, the employee shall be granted excused leave with pay retroactive to the date they were placed on leave without pay.

B. As an alternative to the above Option 1 appeal process, an employee seeking a medical or religious exemption to the vaccine mandate may choose to appeal to Scheinman Arbitration and Mediation Services (SAMS), subject to the terms set forth below:


1. As a condition of filing an appeal to arbitration, employees shall be required to affirmatively waive their individual right to seek an accommodation through any other legal means or process or to bring a legal challenge to the process or the denial of an accommodation request, except the employee may bring an Article 75 appeal.
2. Employees who submitted their initial reasonable accommodation request to their Agency by end of day on November 2nd, will remain working and on payroll, subject to weekly COVID testing, pending the initial determination of the Agency and/or the determination of the employee's appeal by SAMS. Employees who submit their request after November 2nd but end of day on November 5th will remain working and on payroll, subject to weekly COVID testing, after the request has been submitted and pending the initial determination of the Agency, but may be placed on Leave without Pay pending appeal. Employees who submit their request after November 5th will be placed on Leave without Pay starting November 1st and will remain on such leave pending the determination of the employee's request.
3. If an employee's appeal is granted by SAMS, the employee shall be granted excused leave with pay retroactive to the date they were placed on leave without pay.
4. Appeal decisions issued by SAMS will be final and binding and subject only to an Article 75 appeal.
5. SAMS will make appeal decisions on medical requests based on the following medical reasons:
 - a. Full Medical Exemptions to the vaccine mandate shall only be considered where an individual has a documented contraindication such that an individual cannot receive any of the 3 authorized vaccines (Pfizer, Moderna, J&J)—with contraindications delineated in CDC clinical considerations for COVID-19 vaccination. Note that a prior immediate allergic reaction to one type of vaccine will be a precaution for the other type of vaccine, and may require consultation with an allergist.
 - b. Temporary Medical Exemptions to the vaccine mandate shall only be based on the following valid reasons to defer or delay COVID-19 vaccination for some period:

- i. Within the isolation period after a COVID-19 infection;
- ii. Within 90 days of monoclonal antibody treatment of COVID-19;
- iii. Treatments for conditions as delineated in CDC clinical considerations, with understanding that CDC guidance can be updated to include new considerations over time, and/or determined by a treating physician with a valid medical license responsible for the immunosuppressive therapy, including full and appropriate documentation that may warrant temporary medical exemption for some period of time because of active therapy or treatment (e.g., stem cell transplant, CAR T-cell therapy) that would temporarily interfere with the patient's ability to respond adequately to vaccination;
- iv. Pericarditis or myocarditis not associated with COVID-19 vaccination or pericarditis or myocarditis associated with COVID-19 vaccination.

Length of temporary medical exemptions for these conditions may vary, and staff member must get vaccinated after that period unless satisfying the criteria for a Full Medical Exemption described above.

- 6. SAMS will only grant appeals based on religious exemptions if it is in writing by a religious official (e.g., clergy). Requests shall be denied where the leader of the religious organization has spoken publicly in favor of the vaccine, where the documentation is readily available (e.g., from an online source), or where the objection is personal, political, or philosophical in nature. Exemption requests shall be considered for recognized and established religious organizations (e.g., Christian Scientists).
- 7. A panel of arbitrators identified by SAMS shall hear these appeals and may request that the employee or the agency submit additional documentation. The assigned arbitrator may also request information from City doctors as part of the review of the appeal documentation. The assigned arbitrator, at his/her discretion, will either issue a decision on the appeal based on the documents submitted or hold an expedited (virtual) factual hearing. If the panel requests a factual hearing, the employee may elect to have a union representative present but neither party shall be required to be represented by an attorney at the hearing. The City will be represented at the hearing by attorneys from the Office of Labor Relations (OLR) and/or the NYC Law Department. The expedited hearing shall consist of brief opening statements, questions from the arbitrator, and brief closing statements. Cross examination shall not be permitted. Any documentation submitted at the Arbitrator's request must be provided to the agency at least one business day before the hearing or the issuance of the written decision without hearing.
- 8. Appeal decisions shall be expedited without full Opinion.
- 9. The City shall cover all arbitration costs from SAMS under this process. To the extent that the arbitrator requests additional medical documentation or information from the agency, or consultation with City doctors, arranging and paying for such documentation and/or consultation shall be the responsibility of the City.
- 10. An employee who is granted a medical or religious exemption or medical accommodation by SAMS shall be allowed to continue working and remain on payroll, subject to a weekly COVID testing requirement. No other exemption or reasonable accommodation alternatives shall be permitted.

Sincerely,

A handwritten signature in blue ink, appearing to read "Belinda French", with a long horizontal flourish extending to the right.

Belinda French
DCAS Diversity & EEO Officer

Jesus Coombs (DCAS)

From: Human Resources (DCAS)
Sent: Thursday, October 2, 2021 4:00 PM
Subject: Vaccination Mandate Reminder
Attachments: Vaccine Mandate Reminder Memo.pdf

MEMORANDUM

TO: DCAS Employees
FROM: Human Resources
DATE: October 2, 2021
SUBJECT: Vaccination Mandate Reminder

Health Commissioner Dr. Dave Chokshi has signed a Commissioner's Order establishing a vaccination mandate for all City workers. DCAS employees must submit proof of their first COVID-19 shot to Human Resources by October 2, 2021 at 5pm.

DCAS employees who do not comply with this requirement will be placed on leave without pay effective Monday, November 1, 2021.

If you have not provided proof of vaccination, it must be provided to Human Resources in person or by emailing a digital copy to humanresources@dcas.nyc.gov. Acceptable proof of vaccination includes:

- An official CDC or other government issued card bearing the employee's name and date(s) of vaccine administration (a copy must include the front and back of the card).
- A screenshot of an E-celsior Pass issued by the State of New York (App available in the Apple App Store and Google Play Store) containing the employee's name and the section which includes the type of vaccine received and dates administered.
- An image of an official CDC card bearing the employee's name and date(s) of vaccine administration displayed in the COVID Safe App. (App available in the Apple App Store and Google Play Store).

If you have any questions, please contact Human Resources at humanresources@dcas.nyc.gov.

Thank you,

Human Resources



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Jesus Coombs (DCAS)

From: Human Resources (DCAS)
Sent: Thursday, October 2, 2021 4:00 PM
Subject: Vaccination Mandate Reminder
Attachments: Vaccine Mandate Reminder Memo.pdf

MEMORANDUM

TO: DCAS Employees
FROM: Human Resources
DATE: October 2, 2021
SUBJECT: Vaccination Mandate Reminder

Health Commissioner Dr. Dave Chokshi has signed a Commissioner's Order establishing a vaccination mandate for all City workers. DCAS employees must submit proof of their first COVID-19 shot to Human Resources by October 2, 2021 at 5pm.

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- An official CDC or other government issued card bearing the employee's name and date(s) of vaccine administration (a copy must include the front and back of the card).
- A screenshot of an E-celsior Pass issued by the State of New York (App available in the Apple App Store and Google Play Store) containing the employee's name and the section which includes the type of vaccine received and dates administered.
- An image of an official CDC card bearing the employee's name and date(s) of vaccine administration displayed in the COVID Safe App. (App available in the Apple App Store and Google Play Store).

If you have any questions, please contact Human Resources at humanresources@dcas.nyc.gov.

Thank you,

Human Resources



Follow us on:



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Jesus Coombs (DCAS)

From: Human Resources (DCAS)
Sent: Thursday, October 4, 2021 11:25 AM
Subject: Weekly Testing Requirement

Follow Up: Follow up
Flagged: Flagged

Good morning,

Beginning November 1, employees who received the first dose of any **COVID vaccine after October 9th** and employees who are **awaiting a determination on or have been granted a reasonable accommodation request** are required to submit a weekly negative test result to humanresources@dcas.nyc.gov.

For each day you report to work onsite, you must have had a negative COVID-19 PCR test taken within the preceding seven days. If you have been tested within the preceding seven days but are still waiting for the result, you may report to work with a pending test result as long as you provide with proof of test collection, meet the criteria of the health screening, and submit the test results to as soon as they become available.

Please note that only PCR tests (both rapid and non-rapid) will qualify. At-home tests do not qualify. If necessary, you may take time from your shift to get tested so long as

Testing is not available at your work location

- Employees assigned to 1 Centre Street have testing outside of north side of the building therefore may not take time from their shift to get tested

Testing occurs at the beginning or end of your shift

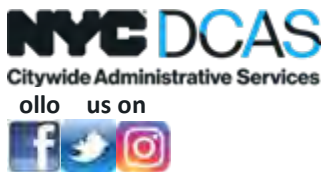
You work with your supervisor to schedule a time for testing that minimizes impact to your unit's operations

- If getting tested at the beginning or end of your shift is not approved by your supervisor, you must get tested before work, after work, or during the weekend

You should be tested in a place close to home or your work site

Regards,

Human Resources humanresources@dcas.nyc.gov



Jesus Coombs (DCAS)

From: Belinda French (DCAS)
Sent: Monday, December 13, 2021 5:21 PM
To: Jesus Coombs (DCAS)
Cc: Milangely Lopez (DCAS); DCAS Diversity EEO (DCAS)
Subject: Reasonable Accommodation Denial Notice 12/13/21
Attachments: Reasonable Accommodation Denial Notice Jesus Coombs 12/13/21.pdf

Importance: High

Follow-up: Follow up
Flagged: Flagged

Good afternoon,

The EEO Office has completed its review of your request for an exemption to the vaccine mandate. Based on the information provided, we are unable to grant your request.

Attached for your review is a notice that explains the reason for this determination in detail.

Please note that you have a right to appeal the denial of a reasonable accommodation request. If you would like to submit an appeal for consideration, please carefully review the following instructions, which includes deadlines for submitting an appeal.

Appeals Process

Based on applicable union agreements regarding the Citywide vaccine mandate, an employee who is unvaccinated and who is denied an exemption may appeal within three (3) business days of receipt of the agency determination by selecting one of two options. These options are outlined in the attached determination notice.

If you wish to appeal the determination on your reasonable accommodation request, please send your written request within three business days of the determination, on or before Friday, December 17, 2021, to the City's online appeals request portal at <https://www.nyc.gov/va/appeal>. This online portal requires you to use your City or email address. If you do not have an e-mail address or computer access, you can provide the documentation to the DCAS Diversity EEO office to upload to the portal. Please note that the request for review must include a reason for the appeal.

A written determination will be provided to you and the DCAS EEO Officer.

If you have questions about the attached notice, please let me know.

Belinda French, Diversity EEO Officer
 1 - 917 - 912 - 9123 | bfrench@dcas.nyc.gov

Sent from the Department of Citywide Administrative Services. This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. This footnote also confirms that this email message has been swept for the presence of computer viruses.

Jesus Coombs (DCAS)

From: Belinda French (DCAS)
Sent: Thursday, December 9, 2021 2:11 PM
To: Jesus Coombs (DCAS)
Subject: Reasonable Accommodation Appeal

Good afternoon,

As the DCAS EEO Officer, I received an automated notification that you submitted your request for appeal to the portal.

Please note that unionized employees are given two options to appeal (1) review by a City panel consisting of representatives from DCAS, Law Department and the City Commission on Human Rights. (I am not a part of this panel) or (2) review by a third party arbitrator. There are conditions and other important information that you need to know if you choose arbitration.

The details for both options are outlined in the notice that I sent to you. **Please select one of these appeal options and let me know as soon as possible.** If you choose arbitration, I will need to provide you with a waiver form for signature before your appeal can be reviewed.

Thank you.

Belinda French Diversity EEO Officer
1 - 917 - 911 - 911 bfrench@dcas.nyc.gov

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Jesus Coombs (DCAS)

From: Belinda French (DCAS)
Sent: Monday, December 13, 2021 5: 2 PM
To: Jesus Coombs (DCAS)
Cc: Milangely Lopez (DCAS); DCAS Diversity EEO (DCAS)
Subject: Reasonable Accommodation Denial notice 12/13/21
Attachments: Reasonable Accommodation Denial notice Jesus Coombs 12/13/21.pdf

Importance: High

Follow-up: Follow up
Flags: Flagged

Good afternoon,

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A written determination will be provided to you and the DCAS EEO Officer.

If you have questions about the attached notice, please let me know.

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 1 - 917 - 912 - 9123 | bfrench@dcas.nyc.gov

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Jesus Coombs (DCAS)

From: Belinda French (DCAS)
Sent: Tuesday, December 21, 2021 11: AM
To: Jesus Coombs (DCAS)
Subject: Re: uic call ith Jesus

i,

es, I m in the office. My ne t meeting is at 12 if you want to talk now.

Belinda French Diversity EEO Officer
1 - 9 C 91 - 9 bfrench@dcas.nyc.gov

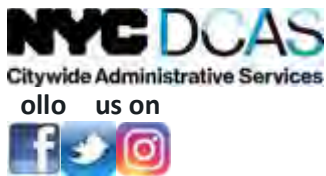
From: Jesus Coombs (DCAS) <jcoombs@dcas.nyc.gov>
Sent: Tuesday, December 21, 2021 11:3 AM
To: Belinda French (DCAS) <bfrench@dcas.nyc.gov>
Subject: uick call with Jesus

Good afternoon Belinda,

I was wondering if I can call you, I have a quick question.

Thank you,

Jesus Coombs, , I , C Chief Architect, Construction Technical Services
1 - C 9 - coombs@dcas.nyc.gov



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To: Jesus Coombs (DCAS)
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1 - 9 C 91 - 9 bfrench@dcas.nyc.gov

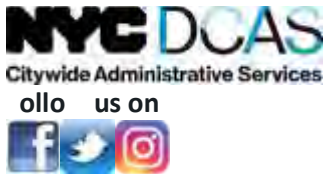
From: Jesus Coombs (DCAS) <jcoombs@dcas.nyc.gov>
Sent: Tuesday, December 21, 2021 11:3 AM
To: Belinda French (DCAS) <bfrench@dcas.nyc.gov>
Subject: uick call with Jesus

Good afternoon Belinda,

I was wondering if I can call you, I have a quick question.

Thank you,

Jesus Coombs, , I , C Chief Architect, Construction Technical Services
1 - C 9 - coombs@dcas.nyc.gov



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Jesus Coombs (DCAS)

From: Belinda French (DCAS)
Sent: Wednesday, January 5, 2022 11:41 AM
To: Jesus Coombs (DCAS)
Cc: Human Resources (DCAS)
Subject: RE: Notification of Appeal Determination for Jesus Coombs

Importance: High

Good afternoon,

My Office received notification of your appeal determination. According to the email below, your appeal has been denied.

Please note that based on this determination, you must submit proof of vaccination within three business days, on or before Monday, January 10, 2022, or you will be placed on LWOP.

I am required to notify Human Resources of this determination and they have been included on this email. Proof of vaccination and any related questions can be submitted to Human Resources.

Belinda French | Diversity & EEO Officer
P: (212) 386-0297 | C: (917) 828-2369 | bfrench@dcas.nyc.gov

From: noreply@salesforce.com <noreply@salesforce.com> on behalf of DC Employee Vaccine Appeals
<vacappeal@dcas.nyc.gov>

Sent: Tuesday, January 4, 2022 2:31 PM

Subject: EEOAL Notification of Appeal Determination for Jesus Coombs

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Forward suspect email to phish@cyber.nyc.gov as an attachment (Click the More button, then forward as attachment).

This is to advise you that the City of New York Reasonable Accommodation Appeals Panel has decided to deny the appeal of Jesus Coombs.

Employees who were able to submit their appeals directly through the portal will be notified by email. If you submitted Jesus Coombs's appeal on their behalf, we ask that you notify them promptly of this determination. If the appeal was denied, Jesus Coombs will have **three business days** from the date you inform the employee to submit proof of vaccination. If the employee does not, they will be put on LWOP. If the appeal was granted, the employee will be permitted to continue coming to work unvaccinated on the condition they continue weekly testing.

Sent from the Department of Citywide Administrative Services. This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. This footnote also confirms that this email message has been swept for the presence of computer viruses.

Jesus Coombs (DCAS)

From: Belinda French (DCAS)
Sent: Wednesday, January 5, 2022 4: PM
To: Jesus Coombs (DCAS)
Cc: uman Resources (DCAS)
Subject: Re: otification o Appeal Determination or Jesus Coombs

i Jesus,

Please check through your emails and your junk mail. The email would have been sent from any one of the following email addresses:

va appeal@dcas.nyc.gov va appeal@dcas.nyc.gov or
noreply@salesforce.com

Once the City panel has made its determination, there is no further appeals process.

Belinda French | Diversity & EEO Officer
P: (212) 386-0297 | C: (917) 828-2369 | bfrench@dcas.nyc.gov

Jesus Coombs (DCAS) <jcoombs@dcas.nyc.gov>
Wednesday, January 5, 2022 12:55 PM
Belinda French (DCAS) <bfrench@dcas.nyc.gov>
uman esources (DCAS) <humanresources@dcas.nyc.gov>
E: otification of Appeal Determination for Jesus Coombs

i Belinda,

o I did not received an email from the Appeals Panel directly.

I m learning of the denial through you.

Also, can I appeal this denial as it was not done through arbitration

Jesús Coombs, RA, AIA, NCARB | Chief Architect, Construction & Technical Services
P: (212) 386-0487 | C: (347) 947-0285 | jcoombs@dcas.nyc.gov



Follow us on:



Belinda French (DCAS) <bfrench@dcas.nyc.gov>
Wednesday, January 5, 2022 12:1 PM
Jesus Coombs (DCAS) <jcoombs@dcas.nyc.gov>
Human Resources (DCAS) <humanresources@dcas.nyc.gov>
Re: Notification of Appeal Determination for Jesus Coombs

Hi Jesus,

Did you receive an email from the Appeals Panel directly? I believe that email provides a reason for the denial.

Your appeal was reviewed by an external City panel and an explanation is not shared with me, only their determination.

Belinda French | Diversity & EEO Officer
P: (212) 386-0297 | C: (917) 828-2369 | bfrench@dcas.nyc.gov

Jesus Coombs (DCAS) <jcoombs@dcas.nyc.gov>
Wednesday, January 5, 2022 12:1 PM
Belinda French (DCAS) <bfrench@dcas.nyc.gov>
Human Resources (DCAS) <humanresources@dcas.nyc.gov>
Re: Notification of Appeal Determination for Jesus Coombs

Good afternoon Belinda,

I am entitled to know the reason and the basis for the denial. If yes can you please provide that to me. I need some form of explanation for the denial so that I can take the next course of action, when I was originally hired by DCAS this was not a condition of my employment and it does violate labor laws.

Thank you,

Jesús Coombs, RA, AIA, NCARB | Chief Architect, Construction & Technical Services
P: (212) 386-0487 | C: (347) 947-0285 | jcoombs@dcas.nyc.gov



Belinda French (DCAS) <bfrench@dcas.nyc.gov>
Wednesday, January 5, 2022 11: 1 AM
Jesus Coombs (DCAS) <jcoombs@dcas.nyc.gov>
Human Resources (DCAS) <humanresources@dcas.nyc.gov>
Fw: Notification of Appeal Determination for Jesus Coombs
Sigh

Good afternoon,

My Office received notification of your appeal determination. According to the email below, your appeal has been denied.

I am required to notify human resources of this determination and they have been included on this email. Proof of vaccination and any related questions can be submitted to human resources.

Belinda French | Diversity & EEO Officer
P: (212) 386-0297 | C: (917) 828-2369 | bfrench@dcas.nyc.gov

noreply@salesforce.com <noreply@salesforce.com> on behalf of C Employee Vaccine Appeals
<va_appeal@dcas.nyc.gov>

Tuesday, January 11, 2022 2:31 PM

RE: Notification of Appeal Determination for Jesus Coombs

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This is to advise you that the City of New York Reasonable Accommodation Appeals Panel has decided to deny the appeal of Jesus Coombs.

Employees who were able to submit their appeals directly through the portal will be notified by email. If you submitted Jesus Coombs's appeal on their behalf, we ask that you notify them promptly of this determination. If the appeal was denied, Jesus Coombs will have _____ from the date you inform the employee to submit proof of vaccination. If the employee does not, they will be put on LWOP. If the appeal was granted, the employee will be permitted to continue coming to work unvaccinated on the condition they continue weekly testing.

Sent from the Department of Citywide Administrative Services. This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. This footnote also confirms that this email message has been swept for the presence of computer viruses.

Jesus Coombs (DCAS)

From: Jesus Coombs (DCAS)
Sent: Thursday, January 6, 2022 12:25 PM
To: Human Resources (DCAS)
Cc: Cris De La Rosa (DCAS)
Subject: Notice of Appeal determination

Good afternoon,

I am waiting for an notification for possible LWOP, as I received an email yesterday, January 5th regarding a denial of my appeal for reasonable accommodations, for a religious exemption from taking the COVID-19 test. This notification was without any explanation or time to digest what is going on, how can I or will be placed on LWOP when due process has not been fully afforded to me. Also, I did not receive official correspondence from any outside party nor did I receive an explanation as to the denial.

I thought that on January 1 or 2, 2022 during the new Mayor's address of the current situation, that punitive action will not be taken. As such being placed on LWOP seems to be the case.

Can I please see or speak with someone about what all this means for me and my family.

Jesus Coombs, Director, I, Chief Architect, Construction Technical Services
1 - C 9 - coombs@dcas.nyc.gov



Jesus Coombs

132 Berkley Street

Valley Stream, NY 11581

December 7, 2021

Work location

1 Centre Street,

20th floor South Elevator Lobby

New York, NY 10007

RE: Exemption from Vaccines Denial of Request for Reasonable Accommodation, notice received via email 12.6.2021 at 5:35 pm

To the appeals committee

I'm writing in response to my denial for reasonable accommodation based on my sincerely held religious belief.

Per DCAS EEO statement that *"Based on the information provided and after careful consideration, this Office determined that you did not provide sufficient testimony to demonstrate that you have a sincerely held religious observance, belief or practice that would qualify for a religious exemption to the COVID-19 vaccine mandate."* I find this statement biased as it puts into question my covenant relationship with All Mighty GOD and whether I'm religious enough. I wonder if a Muslim would be asked if he is religious enough to be a Muslim, or a Jewish person to prove that he is Jewish or a Scientologist to prove he believes in scientology. Nonetheless, since I'm being asked to prove my covenant relationship with my GOD here it goes, GOD gets the preeminence, meaning HE is above all and surpasses it all, my GOD is Supreme because HE is most important, and GOD is Sovereign, he has complete authority and reigns over my life.

5 days a week I wake up at 4:00 am in the morning to have bible studies with 12-17 brothers during which time we study the word of GOD (*evidence of religious observance and practices*). I also regularly attend Freedom Chapel International church on Sundays. I have attached their *testimonies* to this document.

You respectfully cannot state that I do not have a sincerely religious belief because you cannot prove that I don't have a sincere religious belief, if this is the case, please provide me with the proof that I do not have a sincere religious belief after carefully reading this document and attached documentation. I have, however, provided more than 10 reasons that support my sincere religious beliefs below. If you question whether I follow a particular denomination for which some leaders have spoken on behalf or support individuals taking the vaccine, I would like to quote another scripture that will clarify to you why they can choose to keep their belief and yet not contradict MY belief that I should not take the Covid 19 at the same time.

In **Romans 14: 1-4** we read:

14 Accept the one whose faith is weak, without quarreling over disputable matters. **2** One person's faith allows them to eat anything, but another, whose faith is weak, eats only vegetables. **3** The one who eats everything must not treat with contempt the one who does not, and **the one who does not eat everything must not judge the one who does, for God has accepted them.** **4** *Who are you to judge someone else's servant?* To their own master, servants stand or fall. And they will stand, for the Lord is able to make them stand. **5** **One person considers one day more sacred than another; another considers every day alike.** *Each of them should be fully convinced in their own mind.* **6** Whoever regards one day as special does so to the Lord. Whoever eats meat does so to the Lord, for they give thanks to God; and *whoever abstains does so to the Lord* and gives thanks to God. **7** For none of us lives for ourselves alone, and none of us dies for ourselves alone. **8** If we live, we live for the Lord; and if we die, we die for the Lord. So, whether we live or die, we belong to the Lord. **9** For this very reason, Christ died and returned to life so that he might be the Lord of both the dead and the living.

10 *You, then, why do you judge your brother or sister? Or why do you treat them with contempt? For we will all stand before God's judgment seat. 11 It is written:*

"As surely as I live," says the Lord,

'every knee will bow before me;

every tongue will acknowledge God.'"^[b]

12 *So then, each of us will give an account of ourselves to God.*

If I may please clarify, for my brothers and sisters who choose to keep the Sabbath, they do it because it is THEIR sincere religious conviction to keep the Sabbath to the Lord/ GOD. Those who do not keep the Sabbath, because it is THEIR sincere religious belief to not keep the Sabbath, it is their sincere religious belief. In the same manner, those who don't eat pork, don't eat it because it is their sincere religious belief that pork will defile their bodies and vice versa. In the same manner, I don't make the mistake of JUDGING my brother or sister who chose to take the vaccine or leaders who are for the vaccine. Why, because respectfully, only GOD can judge the heart of man, not me, not you, nor anyone. Therefore, I will reiterate that IT IS MY SINCERE RELIGIOUS BELIEVE THAT TAKING THE VACCINE, TO ME, WILL DEFILE MY BODY AND MY STRONG BELIEVE, MY FAITH THAT GOD WILL CONTINUE TO PROTECT ME AS HE HAS BEEN DOING.

If you are going to judge me, judge me by the attached documentations as well as the biblical citations I have provided which all support my sincere religious belief that I should not take any of the Covid-19 vaccines. Below, I have provided additional support for my beliefs.

I believe GOD is a GOD of perfection, and He is perfect in all his ways, it is evident that GOD did not create the vaccine, nor did GOD played a role in creating the vaccine as it does not display perfection, nor does it protect you 100% from contracting the virus or having potential side effects this is a known scientific fact. [Numbers 23:19](#) says "God is not a man, that He should lie, Nor a son of man, that He should repent. Has He said, and will He not do? Or has He spoken,

and will He not make it good?" The Covid 19 vaccines have been known to increase the risk of myocarditis and pericarditis (which can both cause heart failure), cause death, blood clots, and other adverse reactions. Furthermore, to put our trust in man or these vaccines would mean to me that I am not placing my full trust in God. The Holy bible states in [Deuteronomy 6: 16 kjv](#) "Ye shall not tempt the Lord your God, as ye tempted him in Massah." This scripture means that we should not try God by throwing oneself into voluntary and uncommanded dangers (not commanded by God), appeal to God for protection, or trifle with the promises made to those who are thrown into danger by His providence. GOD says in [Exodus 15:26](#), "If you diligently heed the voice of the LORD your God and do what is right in His sight, give ear to His commandments and keep all His statutes, I will put none of the diseases on you which I have brought on the Egyptians. For I am the LORD who heals you." This is clear to me.

Per DCAS EEO other statement that *"According to your request, your opposition to the COVID-19 vaccine mandate is based on documented research that the three FDA-approved COVID-19 vaccines (Pfizer, Moderna, and Johnson & Johnson) used aborted fetal cell lines in either the testing or production of the vaccine. Please note that documented research also shows that while Johnson & Johnson did use a replicated fetal cell line in the production of its vaccine, the Pfizer and Moderna vaccines did not."*

As to the suggestion that I can take the [Pfizer and Moderna vaccines](#), it is my sincere religious belief that I should not take any of such vaccines. It is not questionable that these vaccines [contain genetically modified mRNA](#). As stated in paragraph 3, Introduction section of the science journal published titled "Distinguishing features of current COVID-19 vaccines: knowns and unknowns of antigen presentation and modes of action": *The first category consists of mRNA and adenoviral vector vaccines (herein referred to as genetic vaccines, sections: "Genetic vaccines—general, "mRNA vaccines", "Adenovirus-vector vaccines")...*¹ [Genetically modifying any cell goes against GOD's perfect creation](#), it is like saying "GOD made a mistake and I'm going to take it up on myself to fix it." [Psalm 139:14](#) states *"I praise you because I am fearfully and wonderfully made; your works are wonderful, I know that full well."*

In addition, in [Leviticus 19:19](#) the Word of GOD says do not mix seeds or perform what we now know as genetics when He states "Keep my decrees. Do not mate different kinds of animals, Do not plant your field with two kinds of seed" As stated above, all the vaccines (Pfizer, Moderna, Johnson & Johnson) contain genetically modified messenger RNA. Furthermore, God gave me a perfectly working immune system. How do I know, because [I had the Covid-19 virus infection](#) on September 7, 2021. My God given immune system fought the virus and [I have a high level of antibodies](#) in my body, as shown in the [medical proof](#) I have attached with this submission, [my bloodwork](#) showing my high level of immunity.

As a practicing Christian in a covenant relationship with GOD, taking the vaccine violates that covenant with GOD as goes against GOD's commandments for me.

For me it is not a question of religion but whether I know GOD or not, and my answer is yes I know HIM. [Below I will provide support for my statement as to my knowledge and relationship with God.](#)

I know my GOD by His Personality, in [1 Peter 1:16](#) the Word of GOD says, "¹⁶because it is written, 'Be holy, for I am holy.'" God is Holy therefore I'm to keep myself holy. In [Exodus 20:5](#) the word of GOD says "⁵you shall not bow down to them nor ^[a]serve them. For I, the LORD your God, *am* a jealous God, visiting^[b] the iniquity of the fathers upon the children to the third and fourth *generations* of those who hate Me,"

I know my GOD by his Character, in [Ephesians 2:8-9](#) the Word of GOD says, "⁸For by grace you have been saved through faith, and that not of yourselves; *it is* the gift of God, ⁹not of works, lest anyone should boast." and in [Jeremiah 9:24](#) the Word says "But let him who glories glory in this, That he understands and knows Me, That I *am* the LORD, exercising lovingkindness, ^[a]judgment, and righteousness in the earth. For in these I delight," says the LORD." He is the God who saves

In know my GOD by His Word, in [Psalm 119:105](#) the Word of God says, “Your word *is* a lamp to my feet and a light to my path.” And in John 1:1 the Word says, “**1** In the beginning was the Word, and the Word was with God, and the Word was God.” For me the Word of GOD is absolute.

I know my GOD by his Holy Spirit, in [1 Corinthians 2:10](#), the word of God says “¹⁰ But God has revealed *them* to us through His Spirit. For the Spirit searches all things, yes, the deep things of God.” and in [Romans 15:13](#) the Word says, “¹³ Now may the God of hope fill you with all joy and peace in believing, that you may abound in hope by the power of the Holy Spirit.” The Spirit of GOD is the one who guides me and instructs me.

And I know my GOD by His Son Jesus Christ my personal Lord and Savior, according to [John 17:3](#) the Word of God says “³ And this is eternal life, that they may know You, the only true God, and Jesus Christ whom You have sent.” and in [John 14:6](#) the Word says “⁶ Jesus said to him, “I am the way, the truth, and the life. No one comes to the Father except through Me.”

I would like to help keep the work environment safe which is why I am willing to wear my mask and take the required weekly Covid tests as requested until it is no longer required. By wearing a mask and getting tested regularly, vaccinated members of the work community will not be at risk. If there is the option to work remotely, I would also be willing to work from home, as I did during the pandemic. I think this would be a win-win solution for both parties. If I am granted the ability to continue going into work, I will continue to wear a mask as I have been doing. I believe that this would be the best solution to protect my religious freedom and keep my fellow employees safe.

Based on God’s protection plan for me, I am not a candidate for COVID neither am I a direct threat to the health and safety of anyone in the workplace. There is no evidence that I am a direct threat to the health and safety of our workplace.

According to [Title III of the U.S. Civil Rights Act, § 36.208](#),

"In determining whether an individual poses a direct threat to the health and safety of others, a public accommodation must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or the best available objective evidence."

Absent a court-order of quarantine or isolation, there is no medical evidence that I am a threat to the health and safety of Dept. of Citywide Administrative Services (DCAS). Innocent until proven guilty in the USA.

I would like to keep my job and thank you for taking the time to read my letter of support for my sincere religious beliefs as well as the attached testimonies and medical documentation. Thank you for considering my religious exemption request.

Sincerely,

Jesus Coombs

Digitally signed by Jesus Coombs

Date 2021.12.8

1. Heinz, F.X., Stiasny, K. Distinguishing features of current COVID-19 vaccines: knowns and unknowns of antigen presentation and modes of action. *npj Vaccines* 6, 104 (2021).
<https://doi.org/10.1038/s41541-021-00369-6>

Name: Jesus Coombs | DOB: 11/25/1971 | MRN: 15350457 | PCP: Jonathan Eckstein, DO

COVID-19 ANTIBODY, TOTAL SPIKE - Details

Component Results

Component	Your Value	Standard Range
SARS-CoV-2 Spike (S) Abs Interp.	Your Value Positive	<i>Standard Range Negative</i>
SARS-CoV-2 Abs semi-quant	Your Value 394.00 U/mL	<i>Standard Range <0.80 U/mL</i>

This test is intended for the semi-quantitative detection of antibodies to SARS-CoV-2 Spike (S) in human serum and plasma. The assay is used as an aid in identifying individuals with an adaptive immune response to SARS-CoV-2, indicating recent or prior infection, as well as measuring the immune response to COVID-19 vaccines quantitatively. At this time, it is unknown for how long antibodies persist following infection and to what degree the presence of antibodies confers protective immunity. The Roche Elecsys Anti-SARS-CoV-2 assay should not be used to diagnose acute SARS-CoV-2 infection.

Negative results do not preclude acute SARS-CoV-2 infection. If acute infection is suspected, direct PCR testing is recommended. False positive results may occur due to cross reactivity from pre-existing antibodies or other possible causes. This assay has overall negative percent agreement of 99.98% and positive percent agreement of 96.6% greater than 14 days in post-PCR positive patients.

The Elecsys Anti-SARS-CoV-2 S assay is only for use under the Food and Drug Administration's Emergency Use Authorization.

General Information

Ordered by Jonathan Eckstein, DO

Collected on 12/02/2021 5:50 PM from Peripheral vein (blood)

Resulted on 12/03/2021 8:58 AM

Result Status: Final result

This test result has been released by an automatic process.

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Minister Anthony Rose

204-08 128th Ave
Rosedale, NY 11422
917 833-5515

trose.477mad@gmail.com

9th December 2021

DCAS

1 Centre Street
New York, NY 10007

Greetings and Blessings to the

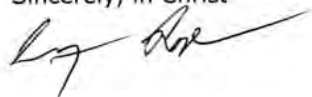
Appeals Committee:

In regards to **Jesus Coombs**, my Brother in the Lord Jesus Christ and Fellow Minister. I testify of his Faith, Convictions and Relationship with God our Heavenly Father through Jesus Christ His Son and the Blessed Holy Spirit.

Brother Coombs server the Lord consistently, faithfully and uncompromisingly. I testify as a personal witness that these characteristics demonstrated in his obedience to every Word of God and his unwavering Faith in God. In his personal relationship with God his Faith and Obedience is very evident. God has protected and healed him and his family from COVID-19 with no detriments to their health.

Jesus Coombs is also very instrumental in preaching the Gospel, and outreaches to the all who are in need nationally and internationally.

Sincerely, in Christ



Sara Coombs-Moreno

1506 Overing Street. Apt. 4B
Bronx, NY. 10461
(646) 263-0968
mscoombs3271@gmail.com

7th December 2021

DCAS

New York, NY 10007

Dear Appeals Committee,

I, Sara Coombs-Moreno, would like to testify that Jesus Coombs, is an outstanding believer in the God of the bible. He is a man who profoundly studies the bible and practices what is written therein. Jesus has blessed our Women Warrior Prayer Zoom group on various occasions teaching the word of God using the bible, especially during the tough Covid 19 pandemic days.

As his genetic sister and sister in Christ, I can testify that Jesus studies and lives according to the bible. In addition, he lives his life, as a man of God, serving the members of our family as well as the members of his community without expecting anything in return. He regularly attends church on Sundays, and he holds a men's prayer and bible study group on mornings. Also, Jesus used to hold prayer meetings in his home before the Covid 19 restrictions were in place.

I can testify that I have heard Jesus Coombs express his sincere religious beliefs against the Covid 19 vaccines and he believes his faith in God will protect him, a belief we have no right to judge.

I thank you in advance for taking my testimony as proof of Jesus Coombs' sincere religious belief against the Covid 19 vaccine.

Sincerely,

Sara Coombs-Moreno

To the Appeal Committee of the City of New York,

I am writing on behalf of my husband Jesús Isaiah Coombs who currently works for DCAS. It is my understanding that religious beliefs are in question, which is absolutely absurd. This is a man that wakes up every morning at 4:00 A.M. to pray in a men's bible study for 3 hours before going to work everyday. As a result his prayers have been limitless to protect you and me. Each and every day he prays for our family, school, work, and The United States of America. Even on vacation, he still insists that we pray and he still attends the bible study. God has granted him to be the head of our household and I'm so blessed to be with him for almost 30 years.

In its most basic definition, a Christian is **someone who is a follower of Jesus Christ**. And we follow Christ by embodying both the beliefs of the Christian faith by believing in JESUS's life, death, and resurrection (orthodoxy), and also by putting that faith into action as true disciples of Christ . As a family we attend and serve in church every Sunday. He has done mission work in several countries and has sacrificed so much for the greater good. He feels that the vaccine is against his religious belief and at this time he is not ready to be vaccinated. I am personally vaccinated but for him he truly believes God doesn't want him to do it right now and I respect that as you should. He has recently contracted COVID and his antibodies should make up for the vaccine because it has created an immune response to trigger a natural immune response to COVID which was what the vaccine was doing in the first place.

I am pleading with you not to put my family through a financial hardship for someone who truly believes and treats his body as a temple of our Lord and Savior JESUS Christ. We will continue to pray for you no matter what your decision is because the man that I love with all my heart told his son and me to do so. May God Bless You.

Sincerely,

Loretta Coombs

December 8, 2021

December 9, 2021

To whom it may concern:

My name is Haelee Shin and I am a City employee, fully vaccinated as of March 22, 2021.

I fully understand the importance of role of government in protecting public health and the ongoing threat of COVID-19 transmission, including new variants in the United States.

On October 20, 2021, Commissioner Dave. A. Chokshi, M.D., MSc issued an Order of the Commissioner of the Health and Mental Health Hygiene to Require COVID-19 Vaccination for City Employees and Certain City Contractors ("Order") declaring that "all City employees...must provide proof to the agency or office where they work that...they have been fully vaccinated against COVID-19." The Order further state that nothing in the "Order shall be construed to prohibit any reasonable accommodation otherwise required by law."

I understand the exercise of the City's power to act to protect public health, however, I believe that this exercise of power must be balanced against respecting an individual's autonomy and his or her rights protected by the United States Constitution. As an American Citizen, I pledged support, protect, and defend the Constitution, including the First Amendment, which protects a citizen's right to practice their religion.

Title VII of the Civil Rights Act of 1964 ("Title VII") makes it unlawful to discriminate against someone on the basis of, inter alia, religion. The Act also prohibits practices that have the effect of discriminating against individuals because of their religion. Discriminatory practices under Title VII also include refusal or failure to reasonably accommodate an individual's sincerely held religious observances or practices, unless doing so would impose an undue hardship on the operation of the employer's business.

I have known Jesus Coombs since March 2009 and he has always been a devout Christian to his core. His religious beliefs define his character and all his actions are guided by his religious beliefs. As such, he openly observes all the beliefs of his religion and practices. Specifically, Mr. Coombs believes in God and God's absolute ability to heal everyone. Mr. Coombs prays to God for healing and for protection against all ailments, including COVID-19. Having said this, it is essential to mention that Mr. Coombs wears his mask all day and physically distances himself appropriately to others. The U.S. Centers for Disease Control and Prevention and the World Health Organization recommend that everyone continue to mask indoors to slow the spread of the virus and studies have shown the effectiveness of mask wearing and physical distancing in protecting people against the spread of COVID-19.

Based on the US Constitution and Title VII, Mr. Coombs should be granted reasonable accommodation for the vaccine mandate because of his religion. Mr. Coombs wears his mask and observes physically distancing. Mr Coombs also is willing to submit to regular PCR testing. In addition, Mr. Coombs' need for religious exemption should not impose an undue hardship on the operations of the City of New York or the Department of Citywide Administrative Services. However, the Order does impose an undue hardship and is directly conflicting to Mr. Coombs' religious beliefs.

As such, I respectfully request that Mr. Coombs be afforded an opportunity to be heard and be afforded another opportunity to demonstrate his religious belief and have his reasonable accommodation request reconsidered.

Sincerely,

Haelee Shin



Jesus Coombs <jesus.coombs07@gmail.com>

Vaccine Mandate (Non-Compliance)

5 messages

Shameka Blount (DCAS) <sblount@dcas.nyc.gov>
To: "Human Resources (DCAS)" <humanresources@dcas.nyc.gov>

Mon, Jan 31, 2022 at 6:13 PM

Good evening,

As you are aware, the City has issued several orders concerning mandated vaccination against Covid-19. The Health Commissioner's Order dated October 21, 2021 mandated vaccination for all City employees. According to our records, to date, you have not met the requirements of this mandate.

Compliance with the vaccination mandate is a condition of your continued employment with the City. If you do not provide proof of vaccination, your employment with the City will be terminated effective February 11, 2022.

For detailed information on where to get vaccinated please visit: [NYC COVID-19 and Flu Vaccine Finder](#)

Shameka Blount | [Executive Director, Administration](#)

NYC Department of Citywide Administrative Services

P: 212-386-0232 | C: 646-369-5706 | sblount@dcas.nyc.gov

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Sent from the Department of Citywide Administrative Services. This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. This footnote also confirms that this email message has been swept for the presence of computer viruses.

Jesus Coombs <jesus.coombs07@gmail.com>
To: WOC4EqualJustice <jo@woc4equaljustice.org>

Tue, Feb 1, 2022 at 2:34 AM

Please see email below

Jesus

Sent from my iPhone

Begin forwarded message:



REASONABLE ACCOMMODATION REQUEST FORM

This form and all information must be kept confidential.

APPLICANT/EMPLOYEE INFORMATION				
Print Full Name Jesus Coombs	<input type="checkbox"/> Job Applicant <input checked="" type="checkbox"/> Current Employee <input type="checkbox"/> Other			
Home or Work Address 132 Berkley Street, Valley Stream, NY 11581	Phone Number 347-742-4195			
EMPLOYEE INFORMATION (Complete this section if you are working at the agency even if you are currently on leave.)				
Civil Service Title Administrative Project Manager	Office Title Chief Architect			
Office Telephone Number 212-386-0487	Division Construction and Technical Services (CTS)	Supervisor Name and Phone Number Joseph Wagner		
Location 1 Centre Street, 20th. Floor South, New York, NY 10007				
APPLICANT INFORMATION (Complete this section only if you are a <u>job applicant</u>)				
Position/Title Sought	Division/Unit (if known)			
Location of Position (if known)				
Part(s) of employment process for which an accommodation is requested				
<input type="checkbox"/> Job Application	Job Vacancy Notice Number (if known):			

<input type="checkbox"/> Interview	Interview Date:
<input type="checkbox"/> At Work	
<input type="checkbox"/> Other (please specify):	
Agency Contact Person (if known)	Phone Number
Basis of reasonable accommodation request:	
<div style="margin-bottom: 10px;"> <input type="checkbox"/> Disability <input checked="" type="checkbox"/> Religion </div> <p>Describe your religious belief/practice/observances and identify the accommodations that you request:</p> <p style="border: 1px solid black; padding: 5px; margin: 5px 0;">I'm a Practicing Christian in a covenant relation ship with GOD, living by every word of GOD as I'm commanded to do according to Matthew 4:4, I'm exempt from taking the Covid vaccine, for additional information please see attached letter</p> <div style="margin-top: 10px;"> <input type="checkbox"/> Status as Victim of Domestic Violence Sex Offenses or Stalking <input type="checkbox"/> Pregnancy, childbirth or a related medical condition </div>	
<p>Identify the situation which requires accommodation.</p> <p><u>Be specific.</u> (Attach additional sheets of paper, if necessary.)</p> <p style="border: 1px solid black; padding: 5px; margin: 5px 0;">According to the Holy Scriptures for which I am commanded by GOD to live by, I am forbidden to take the vaccine.</p> <p style="border: 1px solid black; padding: 5px; margin: 5px 0;">I am also invoking my rights according to Titles II, III and VII of the U.S. Civil Rights Act of 1964.</p> <p style="border: 1px solid black; padding: 5px; margin: 5px 0;">Please see attached letter</p>	
<p>Is the condition for which you are requesting an accommodation</p> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <input checked="" type="checkbox"/> Permanent <input type="checkbox"/> Temporary <input type="checkbox"/> Unknown </div> <p>If temporary, anticipated date accommodation(s) no longer needed:</p>	

Describe the nature of reasonable accommodation requested and how the accommodation will assist you to perform the essential functions of the position held or desired, or to enjoy the benefits and privileges of employment. Please be specific.

(Attach additional sheets and present supporting documentation as appropriate.)

Please see attached letter

If equipment is requested, please specify brand, model number and vendor, if known.

N/A

For Reasonable Accommodations based on Disability you may be required to provide verification by a health professional or a disability service provider (e.g. ACCESS-VR, NYS Commission for the Blind and Visually Impaired).

This CONFIDENTIAL documentation should be provided
to the Disabilities Rights Coordinator or EEO Officer.

Documentation must:

- ☒ **Be written on the official letterhead of the qualified health professional or health professional's organization.**
- ☒ **Identify the health professional's credentials. e.g., M.D., D.O.**
- ☒ **Be dated and signed by the health professional.**
- ☒ **Describe the severity of the disability and its limitations in detail as they currently exist and only in relationship to the job.**
- ☒ **State whether the duration of disability is permanent or temporary or unknown.**
- ☒ **If temporary, specify the date the disability is expected to no longer require accommodation.**
- ☒ **Indicate the extent to which the accommodation will permit you to perform the essential functions of the job or to enjoy the benefits and privileges of employment.**

I certify that I have read and understood the information provided in this request, and that it is true to the best of my knowledge, information and belief.

Date 10/22/2021	Requestor's Signature/Authorized Agent <div style="text-align: center;">  </div> <div style="text-align: right;"> Digitally signed by Jesus Coombs Date 2021-10-22 </div>
-------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

DO NOT WRITE IN THIS SECTION

To be completed by agency staff supervising the employment application process or supervising an employee requesting a reasonable accommodation. After completing, supervisors must provide a copy of the entire form to the employee or applicant, and immediately send a copy to the EEO Officer or DRC.

Name and Title of Supervisor or Staff supervising application process:

Unit/Division:

Location:

Phone Number:

Date Request Received:

☐ Supporting Documentation
Included

☐ Supporting Documentation
Not Included

Date:

Signature

To be completed by the DRC or EEO Officer

Date Request Received by DRC or EEO Officer:

Date Supporting Documentation Received by DRC or EEO Officer (if any):

Signature

Jesus Coombs
132 Berkley Street
Valley Stream, NY 11581
October 22, 2021
NOTICE of Exemption from Vaccines

Dear Department of Citywide Administrative Services (DCAS),

Under Title VII of the Civil Rights Act of 1964, individuals have the right to be free from discrimination on the basis of religion. As part of their religious beliefs, many individuals object to vaccines. Employers are required to accommodate religious observances and practices unless doing so imposes an undue hardship on the business.

I am notifying you that I am exempt from taking the COVID-19 vaccine based on GOD's decision for me. GOD created me with an immune system, and I will not alter His design, it is a sin against my GOD to allow unwanted intrusions into my body which is the temple of the Holy Spirit.

As a practicing Christian in a covenant relationship with GOD taking the vaccine violates that covenant with GOD as goes against GOD's commandments for me. The first reason is that the vaccine was developed from aborted fetal cell lines. GOD is against abortion and therefore I cannot associate with anything that has to do with abortion.

The Bible states:

Exodus 20:13, ¹³ *"You shall not murder.*

Psalms 139:13-16, ¹³ *For You formed my inward parts; You ^[a]covered me in my mother's womb. ¹⁴ I will praise You, for ^[b]I am fearfully and wonderfully made; Marvelous are Your works, And that my soul knows very well. ¹⁵ My ^[c]frame was not hidden from You, When I was made in secret, And skillfully wrought in the lowest parts of the earth. ¹⁶ Your eyes saw my substance, being yet unformed. And in Your book they all were written, The days fashioned for me, When as yet there were none of them."*

Jeremiah 1:5, ⁵ *"Before I formed you in the womb I knew you; Before you were born I sanctified^[a] you; I ^[b]ordained you a prophet to the nations."*

Proverbs 6:16-17, ¹⁶ *These six things the LORD hates, Yes, seven are an abomination to ^[a]Him: ¹⁷ A^[b] proud look, A lying tongue, Hands that shed innocent blood,*

Job 31:15, ¹⁵ *Did not He who made me in the womb make them? Did not the same One fashion us in the womb?"*

I believe in the Bible and that GOD forms babies in the womb. GOD has a plan and a purpose for their lives. Aborting a baby in the womb is murder. It is taking away another human's life and is a sin. Taking the vaccine which was created from tests on aborted fetal cell lines goes against GOD's commandments for me to partake with the murder of innocent babies.

My only choice is to obey GOD's commandments for me not to take the vaccine. God is my protector and my healer, and I trust in him with all my heart for my total and complete protection and my healing.

The Bible says:

In Matthew 9:22, *"²² But Jesus turned around, and when He saw her, He said, 'Be of good cheer, daughter; your faith has made you well.' And the woman was made well from that hour."*

I have never taken flu shots and never gotten sick. In addition, taking the Covid vaccine is not faith in GOD for my healing and my protection, if I were to do this it is sin against GOD.

In Proverbs 3:5-6, *"⁵ Trust in the LORD with all your heart, And lean not on your own understanding; ⁶ In all your ways acknowledge Him, And He shall ^[a]direct your paths."*

Romans 14:23, *"²³ ...; for whatever is not from faith is ^[a]sin."*

My GOD provides healing protection for me against all sickness and diseases through Christ JESUS my personal Lord and Savior.

The Bible says:

Psalms 107:20, *"²⁰ He sent His word and healed them, And delivered them from their destructions."*

Psalms 91:10, *"¹⁰ No evil shall befall you, Nor shall any plague come near your dwelling;"*

Acts 10:38, *"³⁸ how God anointed Jesus of Nazareth with the Holy Spirit and with power, who went about doing good and healing all who were oppressed by the devil, for God was with Him."*

1 Peter 2:24, *"²⁴ ...—by whose ^[a]stripes you were healed."*

I would like to help keep the work environment safe which is why I am willing to wear my mask and take the required weekly Covid tests as requested until it is no longer required. By wearing a mask and getting tested regularly, vaccinated members of the work

community do not have to worry about my health status. If there this the option to work remotely I would also be willing to work from home. I think this would be a win-win solution.

The past year I have been able to work remotely/with a mask and was very successful. I believe that this would be the best solution to protect my religious freedom and keep my fellow employees safe.

Based on God's protection plan for me, I am not a candidate for COVID nether I am a direct threat to the health and safety to anyone in the workplace.

There is no evidence that I am a direct threat to the health and safety of our workplace. According to *Title III of the U.S. Civil Rights Act, § 36.208*, *"In determining whether an individual poses a direct threat to the health and safety of others, a public accommodation must make an individualized assessment, based on reasonable judgement that relies on current medical knowledge or the best available objective evidence."*

Absent a court-order of quarantine or isolation, there is no medical evidence that I am a threat to the health and safety of Dept. of Citywide Administrative Services (DCAS). Innocent until proven guilty in the USA.

I would like to keep my job and thank you for taking the time to read my letter and considering my religious exemption request.

Sincerely,

Jesus Coombs

Digitally signed by Jesus Coombs

Date 2021.10.22

- ① [Unlock the key to NYC](#)
- ① [Get the latest on the COVID-19 Vaccine](#)
- ① [Agency service suspensions/reductions](#)

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Executive Order 75

August 2, 2021

Mandatory Vaccination Requirement for New Hires

[Download Executive Order 75](#)

WHEREAS, the COVID-19 pandemic poses a danger to the health and safety of the City of New York and its residents;

WHEREAS, the U.S. Centers for Disease Control ("CDC") reports that new variants of COVID-19, identified as "variants of concern," have emerged in the United States, and some of these new variants which currently account for the majority of COVID-19 cases sequenced in New York City, are more transmissible;

WHEREAS, the CDC has stated that vaccination is an effective tool to prevent the spread of COVID-19 and benefits both vaccine recipients and those they come into contact with, including persons who for reasons of age, health, or other conditions cannot themselves be vaccinated; and

WHEREAS, an individual is considered fully vaccinated two or more weeks following receipt of a second dose in a 2-dose series of a COVID-19 vaccine, or 2 or more weeks following receipt of one dose of a single-dose COVID-19 vaccine;

NOW, THEREFORE, by the power vested in me as the Mayor of the City of New York, it is hereby ordered:

Section 1. All persons newly hired for employment by any City agency must provide proof of having received at least one dose of an approved COVID-19 vaccine prior to beginning their employment, except for those who obtain an exception due to medical or religious reasons through the reasonable accommodation process.

§ 2. After receiving a conditional offer of employment from a City agency, an applicant for employment must provide proof of having received at least one dose of an approved COVID-19 vaccine within a reasonable period of time. Failure by the applicant to provide the agency with proof of having received at least one dose of an approved COVID-19 vaccine will result in the agency revoking the conditional offer, unless the applicant obtains an exception through the reasonable accommodation process.

§ 3. Any person to whom this Order applies, who begins their employment after providing proof of having received only one dose in a 2-dose series of a COVID-19 vaccine, will also be required to provide their City agency with proof of receipt of a second dose within 30 days of the first dose. Failure to do so will result in termination.

§ 4. The Department of Citywide Administration Services shall promulgate guidance to agencies regarding this Order immediately.

§ 5. This Order shall take effect immediately.

Bill de Blasio,
MAYOR

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EXHIBIT #16

**ORDER OF THE COMMISSIONER
OF HEALTH AND MENTAL HYGIENE
TO REQUIRE COVID-19 VACCINATION OR TESTING FOR
STAFF IN RESIDENTIAL AND CONGREGATE SETTINGS**

WHEREAS, on March 12, 2020, Mayor Bill de Blasio issued Emergency Executive Order No. 98 declaring a state of emergency in the City to address the threat posed by COVID-19 to the health and welfare of City residents, and such order remains in effect; and

WHEREAS, on March 25, 2020, the New York City Commissioner of Health and Mental Hygiene declared the existence of a public health emergency within the City to address the continuing threat posed by COVID-19 to the health and welfare of City residents, and such declaration and public health emergency continue to be in effect; and

WHEREAS, pursuant to Section 3.01(d) of the New York City Health Code (“Health Code”), the existence of a public health emergency within the City as a result of COVID-19, for which certain orders and actions are necessary to protect the health and safety of the City of New York and its residents, was declared; and

WHEREAS, pursuant to Section 558 of the New York City Charter (the “Charter”), the Board of Health may embrace in the Health Code all matters and subjects to which the power and authority of the Department of Health and Mental Hygiene (the “Department”) extends; and

WHEREAS, pursuant to Section 556 of the Charter and Section 3.01(c) of the Health Code, the Department is authorized to supervise the control of communicable diseases and conditions hazardous to life and health and take such actions as may be necessary to assure the maintenance of the protection of public health; and

WHEREAS, the U.S. Centers for Disease Control (“CDC”) reports that new variants of COVID-19, identified as “variants of concern” have emerged in the United States, and some of these new variants which currently account for the majority of COVID-19 cases sequenced in New York City, are more transmissible than earlier variants; and

WHEREAS, the CDC has stated that vaccination is an effective tool to prevent the spread of COVID-19 and benefits both vaccine recipients and those they come into contact with, including persons who for reasons of age, health, or other conditions cannot themselves be vaccinated; and

WHEREAS, section 17-104 of the Administrative Code of the City of New York directs the Department to adopt prompt and effective measures to prevent the communication of infection diseases such as COVID-19; and

WHEREAS, in accordance with section 17-109(b) of such Administrative Code, the Department may adopt vaccination measures in order to most effectively prevent the spread of communicable diseases; and

WHEREAS, pursuant to Section 3.07 of the Health Code, no person “shall do or assist in any act which is or may be detrimental to the public health or to the life or health of any individual” or “fail to do any reasonable act or take any necessary precaution to protect human life and health;” and

WHEREAS, residential and congregate care settings operated by the City and its contractors provide services to all New Yorkers that are critical to the health, safety, and well-being of City residents, and should take reasonable measure to reduce the transmission of COVID-19 in providing such services; and

WHEREAS, a system of vaccination for individuals working in congregate settings will potentially save lives, protect public health, and promote public safety; and

WHEREAS, pursuant to Section 3.01(d) of the Health Code, I am authorized to issue orders and take actions that I deem necessary for the health and safety of the City and its residents when urgent public health action is necessary to protect the public health against an existing threat and a public health emergency has been declared pursuant to such section; and

WHEREAS on July 21, 2021, I issued an order requiring staff in public healthcare settings to demonstrate proof of COVID-19 vaccination or undergo weekly testing;

NOW THEREFORE I, Dave A. Chokshi, MD, MSc, Commissioner of Health and Mental Hygiene, finding that a public health emergency within New York City continues, and that it is necessary for the health and safety of the City and its residents, do hereby exercise the power of the Board of Health to prevent, mitigate, control and abate the current emergency, and hereby order that:

1. Effective August 16, 2021, each staff member or contractor working at a residential or a congregate setting who has not submitted proof of full vaccination against COVID-19 to the agency or contractor for which they work must provide proof of a negative COVID-19 PCR diagnostic test (not an antibody test) at least once per week, to be provided in accordance with city policy..
2. A staff member who provides proof of full vaccination, in accordance with city policy, does not need to submit such proof of a negative test.
3. Within 90 days, the Department shall report to the Board of Health on the implementation of the requirements of this Order and any recommendations to further limit the spread of COVID-19 infection in congregate settings.

For the purposes of this Order:


- (i) “Full vaccination” means at least two weeks have passed after a person received a single-dose of an FDA- or WHO-approved one-dose COVID-19 vaccine or the second dose of an FDA- or WHO-approved two-dose COVID-19 vaccine, except that, for the purposes of this Order, a staff member who provides documentation of having received one dose of any COVID-19 vaccine before August 16, 2021 will be considered fully vaccinated even though two weeks have not passed since their final dose, so long as, if such staff member received a two-dose vaccine, the staff member provides documentation that the second dose has been administered before September 16, 2021.

- (ii) “Residential or congregate setting” means locations where City operated or contracted services are provided in a residential or congregate group setting, and are the following:
- a. Shelters, including but not limited to family shelters, adult shelters, and safe havens, operated by the Department of Homeless Services or its contractors.
 - b. Drop-in centers operated by the Department of Homeless Services or its contractors.
 - c. Domestic violence shelters operated by the Human Resources Administration or its contractors.
 - d. HIV/AIDS Services Administration shelters and supportive housing operated by the Human Resources Administration or its contractors.
 - e. Supportive housing operated by:
 - i. the Human Resources Administration or its contractors; or
 - ii. the Department of Health and Mental Hygiene or its contractors.
 - f. Reentry hotels operated by the Mayor’s Office of Criminal Justice or its contractors.
 - g. Transitional housing sites operated by the Mayor’s Office of Criminal Justice or its contractors.
 - h. Runaway and homeless youth shelters operated by the Department of Youth and Community Development or its contractors.
 - i. Drop-in centers operated by the Department of Youth and Community Development or its contractors.
 - j. Residential juvenile justice programs, including but not limited to secure and non-secure detention and Close to Home programs operated by the Administration for Children’s Services or its contractors.
 - k. Residential foster care operated by the Administration for Children’s Services or its contractors.
 - l. Children’s centers operated by the Administration for Children’s Services or its contractors.
 - m. Senior centers operated by the Department for the Aging or its contractors.
 - n. Naturally occurring retirement community programs operated by the Department for the Aging or its contractors.

- o. Social adult day cares operated by the Department for the Aging or its contractors.
- p. Jails operated by the Department of Corrections.
- (iii) “Staff member” means (i) a full or part-time employee of a City agency, or a contractor of a City agency, who works in a residential or congregate setting, and (ii) an intern or volunteer who works in-person with such City employee or contractor or with a recipient of services in a residential or congregate setting.

This Order shall be effective immediately and remain in effect until rescinded, subject to the authority of the Board of Health to continue, rescind, alter or modify this Order pursuant to Section 3.01(d) of the Health Code.

Dated: August 10th, 2021



Dave A. Chokshi, M.D., MSc
Commissioner

EXHIBIT #17

**ORDER OF THE COMMISSIONER
OF HEALTH AND MENTAL HYGIENE
TO REQUIRE COVID-19 VACCINATION FOR
DEPARTMENT OF EDUCATION
EMPLOYEES, CONTRACTORS, AND OTHERS**

WHEREAS, on March 12, 2020, Mayor Bill de Blasio issued Emergency Executive Order No. 98 declaring a state of emergency in the City to address the threat posed by COVID-19 to the health and welfare of City residents, and such order remains in effect; and

WHEREAS, on March 25, 2020, the New York City Commissioner of Health and Mental Hygiene declared the existence of a public health emergency within the City to address the continuing threat posed by COVID-19 to the health and welfare of City residents, and such declaration and public health emergency continue to be in effect; and

WHEREAS, pursuant to Section 3.01(d) of the New York City Health Code (“Health Code”), the existence of a public health emergency within the City as a result of COVID-19, for which certain orders and actions are necessary to protect the health and safety of the City of New York and its residents, was declared; and

WHEREAS, pursuant to Section 558 of the New York City Charter (the “Charter”), the Board of Health may embrace in the Health Code all matters and subjects to which the power and authority of the Department of Health and Mental Hygiene (the “Department”) extends; and

WHEREAS, pursuant to Section 556 of the Charter and Section 3.01(c) of the Health Code, the Department is authorized to supervise the control of communicable diseases and conditions hazardous to life and health and take such actions as may be necessary to assure the maintenance of the protection of public health; and

WHEREAS, the U.S. Centers for Disease Control (“CDC”) reports that new variants of COVID-19, identified as “variants of concern” have emerged in the United States, and some of these new variants which currently account for the majority of COVID-19 cases sequenced in New York City, are more transmissible than earlier variants; and

WHEREAS, the CDC has stated that vaccination is an effective tool to prevent the spread of COVID-19 and benefits both vaccine recipients and those they come into contact with, including persons who for reasons of age, health, or other conditions cannot themselves be vaccinated; and

WHEREAS New York State has announced that, as of September 27, 2021 all healthcare workers in New York State, including staff at hospitals and long-term care facilities, including nursing homes, adult care, and other congregate care settings, will be required to be vaccinated against COVID-19 by Monday, September 27; and

WHEREAS, section 17-104 of the Administrative Code of the City of New York directs the Department to adopt prompt and effective measures to prevent the communication of infection diseases such as COVID-19; and

WHEREAS, in accordance with section 17-109(b) of such Administrative Code, the Department may adopt vaccination measures in order to most effectively prevent the spread of communicable diseases; and

WHEREAS, pursuant to Section 3.07 of the Health Code, no person “shall do or assist in any act which is or may be detrimental to the public health or to the life or health of any individual” or “fail to do any reasonable act or take any necessary precaution to protect human life and health;” and

WHEREAS, the CDC has recommended that school teachers and staff be “vaccinated as soon as possible” because vaccination is “the most critical strategy to help schools safely resume] full operations... [and] is the leading public health prevention strategy to end the COVID-19 pandemic;” and

WHEREAS the New York City Department of Education (“DOE”) serves approximately 1 million students across the City, including students in the communities that have been disproportionately affected by the COVID-19 pandemic and students who are too young to be eligible to be vaccinated; and

WHEREAS, a system of vaccination for individuals working in school settings or other DOE buildings will potentially save lives, protect public health, and promote public safety; and

WHEREAS, pursuant to Section 3.01(d) of the Health Code, I am authorized to issue orders and take actions that I deem necessary for the health and safety of the City and its residents when urgent public health action is necessary to protect the public health against an existing threat and a public health emergency has been declared pursuant to such section; and

WHEREAS, on July 21, 2021, I issued an order requiring staff in public healthcare and clinical settings to demonstrate proof of COVID-19 vaccination or undergo weekly testing; and

WHEREAS, on August 10, 2021, I issued an order requiring staff providing City operated or contracted services in residential and congregate settings to demonstrate proof of COVID-19 vaccination or undergo weekly testing;

NOW THEREFORE I, Dave A. Chokshi, MD, MSc, Commissioner of Health and Mental Hygiene, finding that a public health emergency within New York City continues, and that it is necessary for the health and safety of the City and its residents, do hereby exercise the power of the Board of Health to prevent, mitigate, control and abate the current emergency, and hereby order that:

1. No later than September 27, 2021 or prior to beginning employment, all DOE staff must provide proof to the DOE that:
 - a. they have been fully vaccinated; or
 - b. they have received a single dose vaccine, even if two weeks have not passed since they received the vaccine; or
 - c. they have received the first dose of a two-dose vaccine, and they must additionally provide proof that they have received the second dose of that vaccine within 45 days after receipt of the first dose.
2. All City employees who work in-person in a DOE school setting or DOE building must provide proof to their employer no later than September 27, 2021 or prior to beginning such work that:
 - a. they have been fully vaccinated; or
 - b. they have received a single dose vaccine, even if two weeks have not passed since they received the vaccine; or

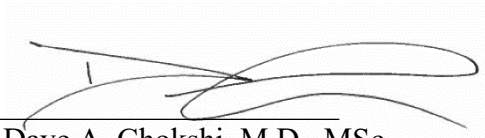
- c. they have received the first dose of a two-dose vaccine, and they must additionally provide proof that they have received the second dose of that vaccine within 45 days after receipt of the first dose.
- 3. All staff of contractors of DOE and the City who work in-person in a DOE school setting or DOE building, including individuals who provide services to DOE students, must provide proof to their employer no later than September 27, 2021 or prior to beginning such work that:
 - a. they have been fully vaccinated; or
 - b. they have received a single dose vaccine, even if two weeks have not passed since they received the vaccine; or
 - c. they have received the first dose of a two-dose vaccine, and they must additionally provide proof that they have received the second dose of that vaccine within 45 days after receipt of the first dose.

Self-employed independent contractors hired for such work must provide such proof to the DOE.

- 4. All employees of any school serving students up to grade 12 and any UPK-3 or UPK-4 program that is located in a DOE building who work in-person, and all contractors hired by such schools or programs to work in-person in a DOE building, must provide proof to their employer, or if self-employed to the contracting school or program, no later than September 27, 2021 or prior to beginning such work that:
 - a. they have been fully vaccinated; or
 - b. they have received a single dose vaccine, even if two weeks have not passed since they received the vaccine; or
 - c. they have received the first dose of a two-dose vaccine, and they must additionally provide proof that they have received the second dose of that vaccine within 45 days after receipt of the first dose.
- 5. For the purposes of this Order:
 - a. “DOE staff” means (i) full or part-time employees of the DOE, and (ii) DOE interns (including student teachers) and volunteers.
 - b. “Fully vaccinated” means at least two weeks have passed after a person received a single dose of a one-dose series, or the second dose of a two-dose series, of a COVID-19 vaccine approved or authorized for use by the Food and Drug Administration or World Health Organization.
 - c. “DOE school setting” includes any indoor location, including but not limited to DOE buildings, where instruction is provided to DOE students in public school kindergarten through grade 12, including residences of pupils receiving home instruction and places where care for children is provided through DOE’s LYFE program.

- d. “Staff of contractors of DOE and the City” means a full or part-time employee, intern or volunteer of a contractor of DOE or another City agency who works in-person in a DOE school setting or other DOE building, and includes individuals working as independent contractors.
 - e. “Works in-person” means an individual spends any portion of their work time physically present in a DOE school setting or other DOE building. It does not include individuals who enter a DOE school setting or other DOE location only to deliver or pickup items, unless the individual is otherwise subject to this Order. It also does not include individuals present in DOE school settings or DOE buildings to make repairs at times when students are not present in the building, unless the individual is otherwise subject to this Order.
6. This Order shall be effective immediately and remain in effect until rescinded, subject to the authority of the Board of Health to continue, rescind, alter or modify this Order pursuant to Section 3.01(d) of the Health Code.

Dated: August 24th, 2021



Dave A. Chokshi, M.D., MSc
Commissioner

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Executive Order 78

August 31, 2021

EXHIBIT #18

Mandatory Vaccination or Test Requirement for City Employees and Covered Employees of City Contractors

[Download Executive Order 78](#)

WHEREAS, the COVID-19 pandemic poses a danger to the health and safety of the City of New York and its residents;

WHEREAS, the U.S. Centers for Disease Control ("CDC") reports that new variants of COVID-19, identified as "variants of concern," have emerged in the United States, and some of these new variants, which currently account for the majority of COVID-19 cases sequenced in New York City, are more transmissible;

WHEREAS, the CDC has stated that vaccination is an effective tool to prevent the spread of COVID-19 and benefits both vaccine recipients and those they come into contact with, including persons who for reasons of age, health, or other conditions cannot themselves be vaccinated;

WHEREAS, the City and its contractors provide services to all New Yorkers that are critical to the health, safety, and well-being of City residents, and should take reasonable measures to reduce the transmission of COVID-19 when providing such services;

WHEREAS, a study by Yale University demonstrated that the New York City Department of Health's vaccination campaign was estimated to have prevented about 250,000 COVID-19 cases, 44,000 hospitalizations and 8,300 deaths from COVID-19 infection since the start of vaccination through July 1, 2021, and the Department believes the number of prevented cases, hospitalizations and death has risen since then; and that between January 1, 2021, and June 15, 2021, over 98% of hospitalizations and deaths from COVID-19 infection involved those who were not fully vaccinated;

WHEREAS, it is essential that the City promote the best health and safety practices recognized in light of current scientific understanding of the conditions under which COVID-19 can spread; and

NOW, THEREFORE, by the power vested in me as the Mayor of the City of New York, it is hereby ordered:

Section 1. City employees must either:

- a. Provide the City agency or office where they work with proof of full vaccination by September 13, 2021, or
- b. Beginning September 13, 2021, and on a weekly basis thereafter until the employee submits proof of full vaccination, provide the City agency or office where they work with proof of a negative COVID-19 PCR diagnostic test (not an antibody test).

Nothing in this Order shall preclude a City agency from requiring an employee who has been vaccinated to be tested for COVID-19 or preclude a City agency from requiring employees to be tested more frequently than once a week.

§ 2. Any City employee who does not comply with this Order may be subject to disciplinary action.

§ 3. All City agencies must take all necessary actions to require their contractors to require their covered employees to either:

- a. Provide their employer with proof of full vaccination by September 13, 2021, or
- b. Beginning September 13, 2021, and on a weekly basis thereafter until the employee submits proof of full vaccination, provide their employer with proof of a negative COVID-19 PCR diagnostic test (not an antibody test).

All such contractors shall submit a certification to their contracting agency confirming that they are requiring their covered employees to provide such proof. If contractors are non-compliant, the contracting City agencies may exercise any rights they may have under their contract.

§ 4. For purposes of this Order:

- a. The term "full vaccination" means at least two weeks have passed after a person received a single-dose of an FDA- or WHO- approved COVID-19 vaccine or the second dose of an FDA- or WHO- approved two-dose COVID-19 vaccine except that, for the purposes of this Order, a City employee or covered employee of a contractor who provides documentation of having received one dose of any COVID-19 vaccine before September 13, 2021 will be considered fully vaccinated even though two weeks have not passed since their final dose, so long as, if such City employee or covered employee of a contractor received a two-dose vaccine, the employee provides documentation that the second dose has been administered before October 28, 2021.
- b. The term "contract" means a contract awarded by the City, and any subcontract under such a contract, for work: (i) to be performed within the City of New York; and (ii) where employees can be expected to physically interact with City employees or members of the public in the course of performing work under the contract.
- c. The term "contractor" means a person or entity that has a City contract, including the subcontracts described in the definition of "contract."
- d. The term "covered employee" means a person: (i) employed by a contractor or subcontractor holding a contract; (ii) whose salary is paid in whole or in part from funds provided under a City contract; and (iii) who performs any part of the work under the contract within the City of New York. However, a person whose work under the contract does not include physical interaction with City employees or members of the public shall not be deemed to be a covered employee.
- e. The term "City employee" means a full or part-time employee, intern, or volunteer of a City agency.

§ 5. Each City agency shall send each of its contractors notice that the Mayor has directed contractors to comply with the requirement of section 3 of this Order and request a response from each such contractor, as soon as possible, with regard to the contractor's intent to follow this Order.

§ 6. This Order shall take effect immediately. Nothing in this Order shall affect the enforcement of other orders issued by the Mayor, the Commissioner of Citywide

Administrative Services, the Commissioner of Health and Mental Hygiene, or the Board of Health.

Bill de Blasio,
MAYOR

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Transcript: Mayor de Blasio Holds Media Availability

August 31, 2021

Mayor Bill de Blasio: Good morning, everybody. When we started out on our vaccination effort, we called it Vaccine for All, literally said we're going to make this something that works for every New Yorker, everywhere, every neighborhood, easy, fast, free, all the things that New Yorkers care about, making sure they can get in and out fast, of course, knowing it's there for everyone for free. We've seen amazing things happen, by far the biggest vaccination effort in the entire history of New York City that keeps growing every day and the numbers are impressive and we keep using new approaches. And this weekend, the weekend of faith, a key example, let's bring all the houses of worship into this effort, a trusted community, voices connecting with their congregants, saying here's vaccination for you. Here's a way to make it work that's easy. Here's a way to do the right thing for yourself, your family, your community, the houses of worship did an amazing job. This weekend, 2,000 vaccinations at the houses of worship as part of our referral program, 2,000 more people got vaccinated, that means every single one of those folks were able to get a bonus themselves, the \$100 incentive, but it also means that every house of worship got a \$100 for each person that they convinced to come in and get vaccinated. This is a powerful approach and it's going to grow and the referral bonus approach, I want to be clear, the beauty of it is the individual is rewarded for coming forward, but whatever the organization is a house of worship, a community group, a business they get a boost too, and a thanks from the city for doing the right thing and helping to get people vaccinated. Lots of great examples around the city, non-profit organizations, houses of worship, businesses, small businesses, community businesses, restaurants that are already participating in the referral bonus program.

One great example, East Flatbush Village, an amazing community group does great, great work, they have really focused on getting the community vaccinated in the place where we need extra help reaching people, and they've already referred over 450 people in the East Flatbush area to get vaccinated, 450 more people are going to be safe, helping to move the city forward, but also thousands of dollars in referral bonus support for East Flatbush Village. Everyone wins in this equation. East Flatbush village does afterschool tutoring for kids, they do really important anti-Violence work in the community, they do youth sports, great work to make the community better, leading the way on vaccination as well. I want you to hear from the Executive Director of East Flatbush Village, who's done so much to help the community, my pleasure to introduce Eric Waterman.

[...]

Eric, thank you so much. I really want to thank you. You've given a great example of what a community group can do. I mean, one community group bringing in well over 400 folks, I'm so happy that's benefiting the good work you do in general, but I'm particularly happy that we got over 400 more New Yorkers who are vaccinated, and then that means more people hear the story that it worked, that it was easy, there's going to be a huge multiplier effect here. So, I really want to thank you for what you're doing for these Flatbush community and for giving a great example to everyone that so many community organizations and other organizations can be a part of this and make a huge impact. Thank you so much for everything you're doing.

Now, again, I mentioned it's not just community-based organizations or how's the worship. We welcome small businesses. We welcome barbershops and beauty salons. We welcome restaurants. We welcome bodegas. Anyone who wants to be a part of this, encouraging community members to come in and get vaccinated, we want those small businesses to benefit. We want to make sure that the individuals from the community come in and get back safe first and foremost we want them to benefit from it but we

EXHIBIT 18(B)

want the small businesses to benefit as well. Here's an example, a restaurant in Harlem, Safari, great restaurant serves up wonderful Somali food, and they recognize after everything they've been through, the restaurant is hit hard, like so many others by the pandemic. They recognized that they could not only the restaurant back but do something great for the community. In a second, you're going to hear from Shakib Farah, who with his wife, Mona, doing great work, educating the community about the power of vaccination. So, here's a community-based business. Customers love it. Community loves it. And here's another place where people are hearing how important it is to get vaccinated and an opportunity for the restaurant to benefit from the referral bonus program. Everybody wins in this scenario. I want you to hear this great example from the wonderful Safari restaurant in Harlem, Shakib Farrah. Welcome.

[...]

Thank you so much. Shakib and I want to tell you, first of all, give you credit for wearing the t-shirt. You got to always promote a small business, a local restaurant, so I'm glad you're getting the name out there. I've heard great things about the restaurant, I look forward to visiting, but I really want to thank you for giving people a great example of how every community business can help to keep people safe, and I wish you great success going forward.

All right, now, the referral bonus, great opportunity for our restaurants as part of how we bring them back. But most important thing for restaurants for all of us is to make this city healthy, make this city safe, make sure we defeat COVID once and for all. I've been talking a lot lately about the fact that we need to get our focus on ending the COVID era once and for all we can do that, we can do that if enough of us get vaccinated and we can therefore avoid ever having to go back to restrictions, right? Remember when all those restaurants got closed, those businesses got closed. Remember the devastating impact. We can never let that happen again. We first and foremost have to protect people because of their health and wellbeing. We have to save lives, but we also can't see our businesses destroyed because we didn't do everything in our power to fight COVID. So that's why the mandates we put in place are so important. And a Key to NYC is here, is being implemented all over the city. Customers know they'll be safe when they're in a restaurant or any indoor entertainment. The folks who work there know they're safe as well. It's not easy. There's real work to be done. That's why we spent weeks on outreach and education, and that's why enforcement doesn't begin until September 13th, but we want to make it as clear as possible. We want to answer questions. We want to work with restaurant owners and other business owners to get it right. One of the things we heard from restaurant owners, as they wanted a simple message that they could put up at the entrance to a restaurant, so everyone understands the rules and they understand that it's a city rule. It's not, something made up by each restaurant, it's universal now. This is the poster that we're going to have available, and in multiple languages for restaurants in a variety of communities to make clear, dear, this is something everyone has to do for the wellbeing of all of us to keep us moving forward to defeat COVID once and for all.

Now I want everyone to know, we may clear on this poster, by the way, someone – let's say someone goes to a restaurant and they didn't know about the rule, they really want to go to the restaurant and they're ready to get vaccinated. We've done a lot of research. We know the vast majority of unvaccinated people are actually willing to get vaccinated. They just haven't done it yet. Really want to go to that restaurant? Do you really want to go to that concert? Whatever it may be, here there's a way you can access the information, the nearest vaccination site. You can literally go to that vaccination site, get your first shot, get your card, come right back, go to that restaurant, go to that movie theater, go to that concert. That's how flexible this rule is. We just want people to get going on vaccination. We know people get the first shot end up getting the second shot as well. So, the information is there and anybody who wants these posters or wants to get them in other languages, and we'll be reaching out to small businesses, but also small businesses of course, can go to nyc.gov/keytonyc, as can all New Yorkers to get the facts about this new approach. Remember it's for indoor dining, indoor entertainment, it's for indoor fitness, and we in – the guides we're providing, the information we're providing today are showing the best practices. We're showing how to go about if you're a business, or you know, a gym, whatever it is, the best way to simply check a vaccination card. Now, remember restaurants and bars have planning experience checking IDs. You check in when you go to a fitness center or a gym, there's lots of history here that we can draw on, but we're showing real templates so it's clear how a business can manage this and make it work, and also how to know when there's a fake vaccination card and what to do about it. And by the way, when there's a fake vaccination card, that means someone has committed a very serious crime, literally that could lead to prison time for anyone who fraudulently creates a fake vaccination card, that is a major offense. So, we make that clear to business owners and what to do about it. I want you to hear about this new guide and what it's going to mean helping New York City businesses to protect their customers, their employers, and the entire city, and move us all forward. Someone who's been fighting all the way through COVID to help small business our Small Business Services

Commissioner Jonnel Doris, Small Business Services: Thank you, Mr. Mayor. You know, everywhere I go around the city visiting our small businesses, our restaurants, our mom-and-pop shops. You can just feel the city coming alive again this summer, I can see our small businesses coming back. We want that to continue. We need that to continue. And the way to make sure this continues is by safely getting people vaccinated through the Key to NYC Program. The first day, the Key to NYC launched, I visited Ricardo Steak House in East Harlem, one of the 11,800 plus restaurants in our Open Restaurants Program, the atmosphere was full of life and energy. And most importantly customers, they have already had the flyer up. They already began to process and ask customers if they're vaccinated or not. And they said something to me, I think that was so important. The manager said to me that this took away the ambiguity of what it is and who's coming in and what to do, and that need to make their customers and their workers understand the processes that were implemented. They said that it was consistent. They said that it was clear, and everybody understood what was expected. And that is what we've done here at SBS, which is walking the corridor or speaking to small businesses, East Harlem, Coney Island, all around the city to hear from them about what we need to do to make sure they fully understand and grasp what is being implemented here. The key to NYC is protecting our workers, our customers, and also our small businesses across the city.

Our job here at SBS is to keep training them and educated them to make sure that whatever is needed is possible and that we give them the resources to do it. Already we've hosted various online trainings. We have 600 plus canvassers out in the field speaking to small businesses now. And I thank our BIDs, our Business Improvement Districts, our chambers [inaudible] Small Business Council, all who are doing this significant outreach and support this mandate that is out there now. And, today, we're putting in our brand-new industry specific guidance that will further help business owners with the mandate. If you are a restaurant, you'll be able to look and see exactly what you need to do. If you are a gym, you'll have specific help on how to put your plan in action. If you're a movie theater, you'll find out on how to keep the line moving. Or any business for that matter, we have specific guidance for you. They are free weekly online trainings as well every Wednesday, and trainings also come in in Mandarin and in Spanish. And to help you create your business implementation plan, we've created a template that you can quickly and easily fill in, how to put your plan into action, know what to check, how to keep things moving quickly when verifying vaccination cards, all of that and more. Go to nyc.gov/KeytoNYC to find out all the information you need there. These resources will be available in 13 languages.

To our small business owners, we are with you every step of the way, providing the necessary resources, and education, incentives for vaccine referrals. We will make this easy as possible. If you have any questions, as we've done throughout the pandemic, our team is here to help you with a personal one-on-one support. Just give us a call at 888-SBS-4NYC – 888-SBS-4NYC. Thank you, sir.

Mayor: Thank you, Commissioner. I love when you remember to give that phone number, thank you very much. So, everyone, throughout the pandemic, we've been focusing on the needs of all New Yorkers. But we all, as New Yorkers, we love – we love our restaurants. We love all the parts of the city that make us so special. You know, the restaurants in New York City are part of our personality, part of our heart and soul, part of our energy, part of why people come here from all around the world, but also our restaurants represent all of us. They represent all of our cultures. They represent the dreams of people who thought, maybe I could create something great, and then they do it. So, from the very beginning, I've been listening to the voices of restaurant owners, as they've talked about what they need to survive. And we've tried, every step of the way, starting with outdoor dining and so many other steps to help them through. And, thank God, so many have made it. One of the people who has been there with us every step of the way, literally, every step of the way, and he is offered ideas, critiques – when he likes something, he says it; if he doesn't like something, he says it. He has been a great advocate for his industry, but he's been someone who's worked with us to always find the next step that we could take to keep people safe and protect the employees and the patrons of the restaurant industry and everyone who loves it. He's been with us every step of the way and I want to say thank you for that. The Executive Director of the New York City Hospitality Alliance, Andrew Rigie.

[...]

Mayor: Amen. And you're at the table right now. I just want to say, we need to see a table – you're at the table. See, it works. Andrew, thank you. You've been a stalwart. And to you and your colleagues, everyone who's been with us, we appreciate it as we work this through. And look at these guides – I just want to make sure everyone sees – this is the kind of thing you'll see online for indoor dining, for indoor entertainment, for fitness facilities, specific, detailed plans on how people can make this work effectively

and where to go for more information. And that's crucial – we want to – we, obviously, want to put forward proactively the information that business owners need. We want to make it as easy as possible, but we know there's going to be a lot of questions. So, we welcome those calls from business owners to work it through. And the team at SBS is ready, willing, and able, including going out to businesses and working with them on the scene to show them the best way to approach this new effort for the good of all.

Now, I want you hear from a City Council member who has been a strong advocate for small business and a strong advocate for ending the COVID era. And he has supported the Key to the New York City approach and the understanding that we need the right kind of mandates to make sure we never slip backwards. He's worked with small businesses in the community to make sure this plan comes to fruition for the good of all and he really understands what it's going to mean when we get this right for the future of New York City. My pleasure to introduce from Manhattan, Council Member Keith Powers.

[...]

Mayor: Yeah. It's Keith Power's diet plan. You heard it here first. Thank you, Council Member. All right. So, now, listen, we've talked about small businesses. We've talked about restaurants, what's crucial to our recovery, saving our businesses, saving jobs, bringing back the life of this city. And we know that's going to be a crucial part of our economic recovery, but we also know our recovery is deeper than that. And we have to keep focusing not only on people's health, fighting COVID, but on public safety as well. All of these pieces go together in a recovery for all of us. So, yesterday, we talked about a profound problem, the fact that our court system is not fully functioning. I want to say it again really clearly, specifically – not fully functioning when so many other parts of our society are fully functioning. Again, for the first six months of this year, when you compare 2019, the first six months of 2019, 405 trial verdicts in New York City. The first six months of 2021, only 18 in New York City. There should not be excuses for that. You know, I would like to hear from the folks who run the courts not their excuses or pointing fingers elsewhere, but just say what they're going to do to fix it right now. We all, in every party that you're hearing – private sector, restaurants – open, making it work. We're bringing back schools, City offices, you name it. There's so many places where people are back, but our court system is just not functioning and it's moving at a snail's pace compared to the rest of the state. So, for that same six-month period, here's another comparison. In all the rest of New York State, 40 trials per month on average. In New York City courts, only seven trials per month. It makes no sense, considering that so much of the activity is – obviously should be here in the courts in New York City. So much that has to be addressed should be happening here in New York City, but it's not. So, how do you stop crime if criminals think there will be no consequences? If criminals know there's not going to be trials, it's not helpful in the least. And just – you'll hear later on this week from our NYPD Commissioner what he's seeing in this situation, but I don't even think you need an expert to see the common sense of this, that if there's no trials, there's no consequences, that doesn't help us stop crime. That's a whole reason we have a criminal justice system to begin with. And there's supposed to be speedy justice, that goes back to the founding of the Republic. And, instead, we see snail's pace justice and it's hurting our efforts to keep the city safe.

I want you to hear from a truly respected national expert. You know, in the last eight years, I've been working on issues of public safety with incredible professionals at the NYPD, and mayors around the country, and there's one name I hear over and over – and it's real interesting, I hope he appreciates this fact that when folks want to talk about one of the ultimate wise men, one of the people really understands public safety and how to bring police and community together in common cause, they talk about Chuck Wexler. I've heard his name, dozens and dozens and dozens of times all around the country. And he understands there is an interconnectedness here. What happens at the community level, what happens with policing, what happens with courts – it all needs to move together. And if one piece of the equation is not working, everything else is affected. I want you to hear from him directly about why it's so important to get our court system up and running 100 percent, so all crimes are addressed. He is Executive Director of the Police Executive Research Forum, one of the most trusted voices related to public safety in the United States of America. My pleasure to introduce Chuck Wexler.

[...]

Mayor: Thank you so much, Chuck. And beautifully, beautifully explained. And, look, I agree with you, this is about everyone chipping in, and it can be done, but it's not going to work without the court system. And I think you just put it in powerful perspective. This is a crisis in plain sight and we've got to be clear about it. Right now, there should be a lot of energy focused from elected officials, from the media, from everyone to say, how do we fix this? We all need to fix it together, but there's no way we get back to the levels of safety that we need if we don't have a functioning court system, it just stands to

Eason: Shuck, thank you. And agree with you—optimism. We are going to get there.

There's no question. We've proven before and you've been a big part of it around the country that we can come up with better and better ways to keep people safe. So, thank you. Thank you for the great work you're doing.

Okay. Everyone, let's go to our indicators today. And, again, we start with the doses administered to-date. And I've got to tell you, I'm seeing great things out there. We talked about Weekend of Faith, the referral bonus program, the mandates are having an impact, incentives are having an impact. From day-one, 10,678,226 doses and growing all the time. Number-two, daily number of people admitted to New York City hospitals for suspected COVID-19 – today's report, 126 patients. Confirmed positivity levels, 16.91 percent and a hospitalization rate of 1.31 per 100,000. And number three, new reported cases on a seven-day average – 1,677.

A few words in Spanish – and I want to go back to making sure that our restaurants come back, that the employees are safe, the customers are safe, everyone together works with the Key to NYC.

[Mayor de Blasio speaks in Spanish]

With that, let's turn to our colleagues in the media and please let me know the name and outlet of each journalist.

Moderator: We'll now begin our Q-and-A. As a reminder, we're joined today by Commissioner Doris, by DCAS Commissioner Lisette Camilo, by Mayor's Office of Criminal Justice Director Marcos Soler, by Dr. Dave Chokshi from Health Department, and by Dr. Mitchell Katz. The first question today, it goes to Juliet from 1010 WINS.

Question: Hey. Good morning, Mr. Mayor.

Mayor: Hey, Juliet. How have you been?

Question: I'm okay, thank you. So, given that you're looking at these protocols and you're going to use these protocols for business, I was wondering would you do something similar for City employees as they return to work this September?

Mayor: Juliet, I want to make sure I understand your question so I want you to restate. I mean, obviously, we have a wide variety of health and safety protocols in place for City employees. So, I want to make sure I understand what you're asking.

Question: Yeah. I was wondering if these are going to be sort of mandated protocols for people when they come back to work in City jobs. Will there be protocols to look at or check for vaccination? Check for masks? For testing?

Mayor: Yeah. Different pieces there, Juliet. Right now, as you know, we have for health care workers a State vaccination mandate. For Department of Education employees, we have a City mandate. First, on the 13th it's vaccination or tests, but then, on the 27th, it goes to vaccination only. We're going to also on the 13th implement for all City workers, the vaccination or test standard. In addition, of course, depending on the work site, but indoors schools, hospitals, masks all the time in places where people are coming in contact with the public; indoors, masks. Variety of protocols, cleaning, you name it. But that's something we're doing across all City agencies, of course. Go ahead, Juliet.

Question: Okay. Thank you. Also, what are the plans – given, you know, there are terrorist attacks in Afghanistan – what preparations have you made to protect the city in the event that there is any indication of any sort of upgraded, you know, alert here? And given that the anniversary of 9/11 is approaching.

Mayor: We take that very, very seriously, Juliet. Right now, first of all, to emphasize, despite the very painful things happening in Afghanistan, there are no specific and credible threats against New York City right now. And that's crucial. We're watching all the time. But, of course, we're hyper-aware that the 20th anniversary of that horrible day, 9/11 is coming soon. And NYPD has been preparing intensely and we're working with all of our partners in the Joint Terrorism Task Force. We'll have more to say on that as we get a little bit closer, but, rest assured, very intensive preparations are being made. But, most importantly, no specific and credible threats directed at New York City at this moment.

Moderator: Next is Dana from the New York Times.

Question: Hi Mr. Mayor. Quick question. Why – you know – has the City given any

consideration to requiring childcare workers who work with kids under two to get vaccinated?

Mayor: Yeah. We are looking at a wide variety of employees of different types, different parts of the City workforce in general, meaning private and public. We've been moving the mandates so far that we thought were absolutely essential, but we continue to look at that. And, as I've said, we've been climbing the ladder. So, we're looking and we'll have more to say soon. Go ahead, Dana.

Question: Thanks. Yeah. I mean, I ask for, I guess, the obvious reason, which is that children under two can't wear masks. I mean, is there a reason why public school teachers are being required, but not daycare workers?

Mayor: Well, again, very different settings. Obviously, very different size settings. A lot of daycare settings are much smaller. But, again, I will just say it this way, and I'll turn to Dr. Chokshi, because his agency has a lot to do with regulating childcare facilities. We, again, are looking systematically sector by sector. We take it seriously, of course. We need everyone to be safe and we want to figure out the right approach for each one. Dr. Chokshi, do you want to add?

Commissioner Dave Chokshi, Department of Health and Mental Hygiene: Thank you, sir. That's exactly right. We are looking at this systematically. We're particularly looking at settings where we want to protect people, particularly younger people who are not eligible to get vaccinated yet. That's why as the Mayor said, you know, we've started with schools. But we do have a range of other settings where additional requirements may come into play in the future. Thank you.

Moderator: The next is Michael Gartland from the Daily News.

Question: Good morning.

Mayor: Hey Michael, how you been?

Question: Good. How are you doing?

Mayor: Hanging in, brother.

Question: I see you taking a page out of Jimmy Odio's handbook with your poster today.

Mayor: Yeah. But look, Michael, hold on. My poster is very clean, neat. You can read it. Jimmy's poster was the, you know, the scribbles of a mad genius. Okay. I didn't know — I was looking at that thing for a while. I was like, what is he trying to tell us here? Continue.

Question: I've got a couple of questions. You know, you talked about vaccine incentives, both for individuals and restaurants, houses of worship. As I'm sure, you're probably aware we had a story that ran Saturday about how the Reverend Kevin McCall basically putting out there that he's giving vaccination exemptions as an enticement for people outside of his church. And as well as, you know, exemptions to people in his congregation. And I was wondering, you know, how prevalent is this? Is the City witnessing a lot of this sort of thing and you know, what should you do? What should the City be doing to push back on this? What are you doing to push back on it?

Mayor: Yeah, we are not — I'll turn to Dr. Katz and Dr. Chokshi for their insights, but I'll tell you from what I've seen, now a year and a half watching this crisis and acting on this crisis. I have not seen that. I know Reverend McCall, I respect him. I appreciate him. I was very saddened to see that. I think that's a mistake. I think it should stop. Those, quote unquote, exemptions are not going to be honored. They're just, that's not the way to do things. And so I think people should recognize so important to get vaccinated leaders of veritably, every faith tradition have stepped forward, encouraged vaccination. You heard on Thursday, we had the Cardinal here and Reverend A.R. Bernard and Rabbi Potasnik. And so many faith leaders across the whole spectrum have been hosting vaccination events. So, we just got to focus on getting people vaccinated and you know, making sure people understand that's the only way to be safe. In terms of if we've seen much of this, Dr. Katz or Dr. Chokshi, you want to add?

President and CEO Mitchell Katz, NYC Health + Hospitals: Yes, Mr. Mayor, I think you've covered the important points. We haven't seen people bringing letters, but I just want to make sure everyone understands that no one can grant you a religious exemption. Religious exemptions are based on someone's personal, sincerely held

beliefs. They're not based – no one can give you an exemption. But we have not seen these letters. Thank you, sir.

Mayor: Thank you. Go ahead, Dr. Chokshi. You want to add?

Commissioner Chokshi: The only thing that I'll add, sir, is that we have seen countless examples of faith leaders stepping up to support our vaccination efforts. They do it out of care and concern for you know, people who have been a part of their community for years and decades. And that's been vitally important. We've seen it not just in the Weekend of Faith as the Mayor mentioned this past weekend, but over the last several months. It helps people to worship more safely. And as we've been saying, vaccination makes every activity safer. So, we've been very pleased with that partnership with faith leaders and we'll continue to deepen it in the weeks ahead.

Question: Thank you. Go ahead, Michael. Thank you guys. On courts, I'm wondering if you think, should OCA be calling in New Yorkers for jury duty given, you know, spikes in wherever related Delta cases? And you know, you mentioned helping out with facilities yesterday and I believe last night, I mean, how exactly would the City address that the court issue facilities wise? I mean, do you have kind of specifics you can give us on that?

Mayor: Yep. I'll start. And I want to on the facilities question, turn to our Commissioner for Citywide Administrative Services, Lisette Camilo in just a moment. And then on the question of how important it is to have courts functioning and the impact, I'll turn to our Director of the Mayor's Office of Criminal Justice, Marcos Soler, also in a moment, but let me frame it. We got to address safety and health across the board. If criminals suffer no consequences, then there's a safety problem. So, we have to have a functioning court system. If I said to you, well, why don't you know, why don't the police stay home or firefighters stay home or EMS stay home, or, you know, go on, go on with all the parts of our society. Why doesn't everyone stay home because of COVID? Well, no, the answer is not that. The answer is to fight back. The answer is to get people vaccinated. The answer is depending on the setting, to wear masks, to do the proper ventilation and cleaning. It's not to give up. It is to figure out how to make it work. And juries come together just like all other people in workplaces come together. We need juries for a functioning system. So, there's something strange. There's almost like a suspension of belief going on here that somehow the court system has created this fiction that they could be allowed not to function while everyone else has to function. And I don't buy it. They need to function too. They should do it safely and we'll help them. And we've been making that offer for over a year now. In terms of the facilities themselves, I want you to hear from Lisette Camilo and I want to summarize. We provide vaccination assistance, free masks, air purifiers, plexiglass barriers, deep cleaning, you name it, for the buildings that are our buildings and Lisette that can speak to you about that ongoing effort to make sure courts are safe. And the fact that we welcome any additional requests that we can address. The State has responsibility for the courts, obviously. But we'll work with them in every way possible to address concerns. The only thing we won't accept is not having trials. Failure's not an option here. That's my message to the court system. Commissioner Lisette, Camilo, talk about the efforts that have been made to help keep everyone safe.

Commissioner Lisette Camilo, Department of Citywide Administrative

Services: Thank you, Mr. Mayor, happy to. And like you said, we work very closely and we talk to OCA every day, our teams, in order to fulfill any requests that they may have regarding their facilities. But since the beginning of the pandemic, CAS assessed every single HVAC system in every single building. We've upgraded the outdoor air intake and installed the highest rated filters that the HVAC systems could withstand. We routinely replaced the filters to ensure that we have really a good clean filter to address any air quality issues. But we really rely on OCA to tell us what additional things they need for us to do. We are happy to assist them. We work with them on the purchase of portable air filtrations, and we routinely work with them to install plexiglass barriers wherever they dictate they are there. They have to tell us what their operations need and we will wherever we can, go in and meet those needs particularly on the facility, maintenance wise.

Mayor: Thank you so much, Commissioner. And I want to turn again to Director Marcos Soler to talk about, again, why it's so important. Why is just not having jury trials is not an option if we're going to fight crime and keep people safe. Marcos Soler,

Director Marcos Soler, Mayor's Office of Criminal Justice: Thank you, Mr. Mayor. I think what is important is for [inaudible] and can deter and incapacitate those individuals, those small number of individuals who are drivers of gun violence. And right now we don't have that because we don't have – we don't have enough appearances. We don't have enough pre-trial hearings. We don't have enough motions. We don't have enough pleas as you have indicated. All those numbers are down by 40, 50 percent. And as a result of that, we don't have trials. And it's absolutely important to

have a system that can deter and incapacitate those individuals who pose the highest risk to our communities.

Mayor: Thank you, Marcos. And look, I want to just broaden the point. We also – it's not just the worst crimes. Of course, that's our first concern. We don't want any criminality or lawlessness to go unaddressed. So, the point is what worked so well from 2014 through 2019 was neighborhood policing, working with a functioning court system. And we proved for six years, we could drive down crime consistently and deepen the cooperation between NYPD and community. But that required a court system that created consequences for a range of crimes. We needed anyone considering making, doing something illegal that, to know that there would be consequences. When there were functioning consequences, it helped us keep everyone safe and stop crimes of all kinds. We've got to recreate that now. We're recreating all the other parts of our society. We've got to do that right now with our court system. Go ahead.

Moderator: The next is Emily from NY1.

Question: Hi, Mr. Mayor. Could you please tell me what you know about a cargo building at JFK Airport being readied for the processing of Afghan refugees as they arrive here in this area?

Mayor: Emily, thank you for the question. Our Emergency Management Office was asked to work with federal and State officials on a contingency plan and to prepare a building just in case. What we're hearing right now, and of course, all of the decision-making will be made by the federal government. All the key decisions will be made by the federal government. That they have not yet made a decision on whether they do need that building or whether there's going to be activity at JFK. But they asked us to get it ready just in case. And of course, we're cooperating with the federal effort. Go ahead, Emily.

Question: Mr. Mayor, do you – what is your administration's commitment to any incoming refugees whether they have family here or not? And do you support a lifting of the refugee cap at the federal level?

Mayor: Emily, we are a city of immigrants and we're a city of refugees. Of course, we will provide a welcome to those who need our support. And we assume that will be true all over the country. And you know, the entire country will work together with the coordination of the federal government to ensure that you know, many different places participate for the good of all. I don't know enough about the cap situation. I do know that folks who have been through this horrible experience in Afghanistan and particularly those who worked with the United States, deserve to be protected. And New York City will certainly play a role and do our fair share.

Moderator: The next is Matt Chayes from Newsday.

Question: Hey, good morning, Mr. Mayor. How are you?

Mayor: Good, Matt. How you been?

Question: Been all right. Thank you for asking. This question is for Dr. Chokshi. A study released six days ago out of Israel shows that immunity from virus induced infection is far superior to that of vaccines. What would you need to learn before those previously infected and those whose tests show high levels of antibodies be able to enjoy the same privileges as those who are vaccinated? Is there anything you can learn?

Mayor: Dr. Chokshi? And if Dr. Katz wants to join in as well, go ahead.

Commissioner Chokshi: Thank you, sir. And thanks Matt, for this question. I am familiar with this study that you're mentioning. The study was released as a pre-print and is not yet peer reviewed. But it is an important contribution to the scientific literature. It does not, however, change our strong recommendation that even people who have been previously infected get vaccinated. And that's because the science is very clear that getting vaccinated affords stronger protection, gives you stronger levels of immunity against the coronavirus, which is particularly important in the context of the Delta variant. Thank you.

Mayor: Dr. Katz, want to add anything?

President Katz: Yeah. I just want to support Dr. Chokshi's view that yes, we recognize people have had infection with COVID and that likely affords them some immunity. But why not strengthen that immunity through vaccination? We think that that's a much more successful strategy. Thank you, sir.

Mayor: Thank you. Go ahead, Matt.

Question: Okay. Pre-prints and non-peer reviewed studies have been cited by you guys at these news conferences before. And the question was, what would you need to learn, not what your current recommendations are. But I have another question, which is why won't you release data about reinfections in a manner just as forthcoming and comprehensive and transparent as you were releasing vaccine effectiveness data? I've asked you this a bunch of times and the questions have been not responded to.

Mayor: Yeah, Matt. I'm confused by the question, honestly, because we had a whole discussion, I think it was last week, about what we're seeing with re-infection and we gave live numbers. I'll turn to the doctors again. We want that information to be out there. We know it's a reality. It still pales in comparison to what's happening with unvaccinated folks. But I feel your angst over this, but I really think we are trying to be transparent. If there's anything more we can be doing, I'm happy for us to do it. Dr. Chokshi, Dr. Katz, you want to speak to this?

Commissioner Chokshi: Thank you, sir. And yes, I believe Matt is asking you know, specifically about people who are getting reinfected who have not been vaccinated and essentially, you know, what the rates of that are? There is some data about this from around the world. It is something that we are tracking in New York City as well. And Matt, I believe my team has shared some of that data with you, but we'll be happy to follow up for any more detailed information. These are things that are nuanced to study and that we have to make sure we bring the right analytic approaches to. In part because the fact that someone has a repeat positive test, does not always mean that they have been reinfected given some of the subtleties with respect to testing. So, this is something that we're happy to follow up with you on if you want further information. Thank you.

Mayor: Thank you.

Moderator: The next is James Ford from PIX 11.

Question: Great. Thanks for taking my question.

Mayor: How are you today, James?

Question: Very well. Thank you for asking. I hope you're well as well.

Mayor: Thank you. Yes. What's going on?

Question: All right. City Council Education Committee Chair Mark Treyger has now said that both Health Commissioner Chokshi and Schools Chancellor Porter will testify tomorrow at his committee hearing on the schools opening plan. He also said there are still many lingering questions about reopening that he wants answered in the hearing, including how to know which students need to quarantine, what remote options, if any, there are for students generally, and for those who have to quarantine. Will you and Commissioner Chokshi provide us with some answers to these questions? And what do you anticipate will come out of the hearing, please?

Mayor: Thank you for the question, James. I'll turn to Dr. Chokshi, but I'll tell you this. I listened carefully to what you just laid out. I believe all of that was covered in our discussion last week when we laid out the guidebook for parents. We talked about what were the exceptions, for example, medically frail students, students who are immunocompromised, where there can be instruction provided a different way. We talked about the standard for quarantining but remember that's a different standard at this time because any adult or student who is vaccinated will not have to quarantine unless they're symptomatic. So, we went over all that it's been printed, it's out there, parents have it. Happy to see Dr. Chokshi and Chancellor Meisha Ross Porter go over that again at the hearing, but we really feel we've answered a very, very broad range of questions. We all said there was a few things we're still working on, particularly with our labor partners. But I expect the hearing to be, you know, a lot of strong questions that are coming from parents and communities, and we're ready to answer them. I think it'll help get more information out there. Dr. Chokshi, you want to add?

Commissioner Chokshi: Thank you, sir. No, nothing to add in terms of that question. I'm also looking forward to the hearing. I know that there are several questions. We'll go over the information that we have released and answer any other questions that are forthcoming. Thank you.

Mayor: Thank you. Go ahead, James.

Question: All right, thank you both for the response. And then on behalf of my colleague, Nicole Johnson, she asked that – she asked this question. We continue to see gun violence happening sometimes in broad daylight and affecting more innocent bystanders, including an 81-year-old shot on the Upper West Side. We keep hearing some similar answers from the administration, as far as what's being done. Do you think it's time to reevaluate the approach to help stop shootings that we've been seeing in the city?

Mayor: James, I appreciate the question. Look, even a single shooting is not acceptable to me obviously. And every time – I get the reports constantly – every time anyone is harmed whether, God forbid, there's violence between gangs and there's intended targets, that's horrible, and that means young people's lives are destroyed, both the victim and the shooter. And we all feel a special pain, I do, whenever it's an innocent bystander. We don't accept any of this. Now in a few days, we're going to lay out the latest information of what we've seen in the month of August, and, of course, June and July before that. And we've got a lot of work to do, James, and until there are no shootings, we have work to do, but you're going to see that there's been consistent progress in terms of gun arrests, consistent progress in terms of reducing shootings. We got a long way to go to fix everything that got broken because of COVID and everything that was unleashed, but we're making substantial progress and with amazing support from communities from violence interrupters, and community groups, and so many others. We're going to go over all of that. But I want to reiterate if we really want to solve the problem, we need a functioning court system. We have a lot to do at the City level. The NYPD has a lot to do. It's on all of us to keep fixing this problem and we are fixing it, but we cannot get the full results we need without a fully functioning court system. And again, James, I would say to all of you who, to your great credit, pursue important stories with great vigor and look under every stone, it's staring us in the face. One part of our criminal justice system is not functioning. Everybody else is. We've got to fix it.

Moderator: We have time for two more for today. The next is Henry from Bloomberg.

Mayor: Henry, you out there? Henry? Henry?

Moderator: We'll move on from Henry. The next is Amanda from Politico.

Question: Good morning, Mr. Mayor, how are you?

Mayor: Hey, Amanda, how you been?

Question: Good. Thanks.

Mayor: Are you – have you gotten over your volleyball injuries?

Question: I have a new softball injury, but you know how it goes [inaudible] –

Mayor: Yeah, it's one or the other for me.

[Laughter]

Question: Well, thank you for asking. I wanted to talk to you a little bit more about these vaccine mandates for health care workers, particularly for Health + Hospitals. So, there's been a little confusion among health care workers in terms of meeting either their system's deadline or the State deadline. And I've talked to nurses who said, they're concerned about what happens if, you know, let's say five percent of the workforce is asked to leave because they're not getting vaccinated, what does that look like with staff shortages that exist already? And so, I was hoping for you to kind of give me your thoughts on those concerns and whether or not you're hoping to mitigate that with additional hiring and then also I'd love to hear from Dr. Katz as well.

Mayor: Yeah. And I'll start, I'll turn to Dr. Katz for sure. Amanda, we talked about this as we were preparing our own mandate, which of course was vaccine or test. And then the State made a decision, which I certainly support, to do an across-the-board vaccine mandate for frontline health workers. That was very important. It was the right thing to do in part because it created universality. So, folks who want to work in the field – and now it's not a matter of, you know, leaving one employer going to another, it's expected everywhere. We also find that a lot of people, when really at that moment of choice, do decide it's the practical and smart thing to do to get vaccinated. So, the actual incidents of people threatening to leave has been much less than I think some of the initial

projections. We don't take it lightly and we're certainly preparing if there are some departures. But I feel that the vast majority of our health care workers who are not yet vaccinated are going to get vaccinated, are going to stay, you know, at their post, helping people. They're there for a cause that they believe in. And I think we're going to find that this is going to be something we can navigate well. Dr. Katz.

President Katz: Yes, sir. I totally agree with your assessment. My staff are incredibly dedicated people who choose a mission every day to take care of other people. And I think that they will want to get vaccinated, as you say. Because it's a statewide mandate people would literally have to leave the health care field. It's not a question that they would leave Health + Hospitals and join another health care system. They would have to completely leave the field. And we've found even with our current vaccine or testing strategy that when people understand they may be initially reluctant, but they ultimately go forward and get vaccinated or testing. We've seen a major increase in our vaccination rates since we instituted the Vax-or-Test mandate. And then finally, we've already instituted this requirement for new employees thanks to you, sir. You remember when you announced for all new employees of Health + Hospitals as well as for our contractors. That's already in place and we have not seen any inability to bring in new staff or contractors despite having a vaccine mandate in those cases. Thank you, sir.

Mayor: Thank you. Go ahead, Amanda.

Question: Thank you. And Dr. Katz, I'd love to follow up. Do you have initial projections of how many health care workers in your system you would expect to leave considering the new mandate? And if so, is hiring a priority to make sure that staffing levels are, you know, I guess at the level that they are right now?

Mayor: As we turn to Dr. Katz, what I'd say, Amanda, just to frame it is, we went through extraordinary challenges last year and we saw tremendous agility at Health + Hospitals finding additional staffing when the question was just the need to intensely increase the amount of staffing because of the cases that were growing and growing. This is a much – from everything I can see a much lesser challenge, thank God. And certainly, I know H+H has the capacity to find additional staff when needed in normal times. But Dr. Katz, to the extent you want to offer any framing here of what you're expecting and your ability to fill in any of the roles you need to, how do you want to – how do you want to frame that for Amanda?

President Katz: Thank you, sir. And as you say, last year in March when we were under such dire conditions due to the explosion of COVID cases, Health + Hospitals added 7,000 new employees who worked at least one day. So, we know that if we have to, we will. We are a system that is always creating contingency plans because we recognize there are natural disasters, there are man-made disasters. Sometimes we have to bulk up staffing. Sometimes we have to ask people to do different jobs and be flexible in order to take care of people. I believe when all is said and done, there will be a small number of people who will not wish to get vaccinated but that we will be able to compensate for that small number of employees leaving us. Thank you, sir.

Mayor: Thank you. Go ahead.

Moderator: Last question for today, it goes to Reuvain from Hamodia.

Question: Good morning. I just wanted to follow up on the question earlier about reinfection. So, the doctors said that the recommendation is still to get the vaccine, even if you've had a prior infection because the vaccine gives you additional immunity. Well, first of all, it's not a recommendation, it's a mandate, but the fact is that even if the vaccine gives you additional immunity, if there are certain rights that are being given to New Yorkers who have the vaccine, that the vaccine alone is enough to give you these rights, like going to concerts with the Mayor in Central Park, then if the immunity from reinfection is even greater than that, why should that alone not be enough?

Mayor: Alright, I'll turn to the doctors. But here's what I think is the commonsense answer. It's a very fair question, Reuvain, and I appreciate the question, but I think the commonsense answer is this, we're fighting an extraordinarily dangerous foe, and we found the vaccine is the difference maker, and it was based on a lot of research all over the world. And we've seen it with our own eyes. If we had not had a huge number of vaccinations in this country, Lord knows where we'd be right now and how horrible the situation is. So, we've seen with our own eyes the impact it makes. It doesn't mean you can't have more than one strategy, but we're absolutely convinced that vaccination is a necessary part of any strategy. It's been proven on the ground all over the country. With that, Dr. Chokshi, Dr. Katz.

Commissioner Chokshi: Thank you, sir. I would just add that, you know, that there's just a basic choice here if someone has had prior infection with COVID and that's

whether or not to get vaccinated. And if you just boil it down into that choice, it is very clear that getting vaccinated does confer additional protection. It strengthens your immunity. There is a study from the CDC that showed that people who are unvaccinated, who have had prior infection are twice as likely to get reinfected compared to people who had prior infection but got vaccinated. So, this is the basis of our recommendation. It's really both to protect the individual as well as for the broad population benefits that we know that widespread vaccination can confer. And I'll just add on a personal note. I faced this choice myself with respect to having been infected previously and I made the decision to get vaccinated, to protect myself and to protect my loved ones. Thank you.

Mayor: Thank you. Dr. Katz, do you want to add? Dr. Katz –

President Katz: Nothing to add, sir –

Mayor: All right, go ahead, Reuvain.

President Katz: Nothing to add, sir. Thank you.

Mayor: Thank you. Go ahead, Reuvain.

Question: Yeah. So, Dr. Chokshi, no one's doubting that getting the vaccine in addition to a prior infection is better than just the prior infection. I, myself, made the same choice you did. I was infected previously, and I got vaccinated. But again, I'm sorry, my question was not answered. If the vaccine immunity – if the City has decided that vaccine immunity alone is enough to be granted these rights like eating at restaurants or going to concerts, and if immunity from re-infection alone is better than vaccine immunity, as an Israel study has shown, then why should the prior infection alone not be enough to get these rights?

Mayor: Well, again, I'm going to just challenge this on a commonsense level and then let Dr. Katz and Dr. Chokshi speak to it. You've got a study and we value each study, but I've learned enough in the last year-and-a-half to say it takes more than a single study to determine all the policies we're going to make. We have global evidence of the impact of vaccination. It's not conjecture. It's not a single study. It's not a new development. It's proven on the ground. We're not moving off that. We're doing the thing that we know works. And again, I really do respect the question, but I also want to go back to why we're doing what we're doing. We have to save lives. We know the vaccine has saved countless lives. We have to avoid letting the Delta variant gain more steam. We know the vaccine is helping us do that, and we need to avoid falling back to restrictions. And clearly you see the life of the city right now, that's because of vaccination. Any natural immunity, that's great, but we didn't have vaccination before. And we saw the ability of COVID to come back. Once we instituted massive vaccination, we've seen our ability to hold the line and bring our city back. I think we've seen it with our own eyes. It's more powerful, bluntly, than any single study. Dr. Katz and then Dr. Chokshi.

President Katz: I agree. And I would again say, I don't see what the argument is for not getting vaccinated if you have prior infection. Both you have gotten it and Dr. Chokshi has gotten it. And I – that's what I recommend for my patients who've previously had COVID. We should all want maximum immunity from this awful virus. Thank you.

Mayor: Dr. Chokshi –

Commissioner Chokshi: Nothing to add, sir. Thank you.

Mayor: As we conclude, I just want to put a point on it. It's not just – I do appreciate the question again. The question is framed almost from a personal level. I'm going back to the needs of all New Yorkers. 8.8 million people. We can't simply say, oh, let's do either-or and let's make it something where we don't do everything possible when it comes to the number one tool, which is vaccination. It is proven to be the number one way to fight back. So, to me, it would be a massive mistake to pull our punch. Just when we are gaining ground, we're fighting back the Delta variant. Why would we step back from that? We're making stunning progress. The city is showing when you have a high level of vaccination, everything else is possible. And we're seeing the horrible tragedies in other parts of the country. And I'm sure there are people that are good people saying, hey, we can go without vaccination. Well, guess what? Look at the parts of the country, where there are low levels of vaccination, look up the horrible things happening to people there. And those are places where lives are being lost and they are running the risk of falling back into all those restrictions. We can't let that happen here. So, as per usual, the answer is, everyone, if you're not yet vaccinated, no better day than today. Thank you.

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Transcript: Mayor de Blasio Holds Media Availability

September 8, 2021

Mayor Bill de Blasio: Good morning, everyone. What we've been talking about all year, all of 2021, a recovery for all of us. That means reaching every neighborhood, making sure that folks who have been through so much for the last year and a half with the coronavirus are able to come through strong, helping families, helping people come back and then making it sustainable for the long term. We say a recovery for all of us because we intend to do something better going forward. And it's again, the classic formulation. You heard it from President Biden yesterday, passionately Americans, New Yorkers in the midst of crisis, we band together, we overcome, we build back better. This is not just words. This is a reality. This is a history. This is a fundamental truth. We're going to do that here and now, overcoming the impact of the coronavirus, overcoming the impact of Hurricane Ida. Anything that's thrown at us we will overcome now. The President was passionate yesterday and we really, I just want to say I am so thankful for his visit. It was incredibly heartening to the folks in Queens he met with, but to everyone in this city. The President's here, he's talking about real support for the city right now.

He's also talking about the big picture, the big challenges we faced and he's doing something about it. Extremely visionary, aggressive approach to addressing climate change, to addressing the infrastructure needs we have. We have not seen anything like this in decades. It's incredibly refreshing. So, I want to thank President Biden. He is showing us through his actions that we can build back better, that we can do something different. And that's exactly what we needed at this moment. We talked to families up and down that street in Astoria who are going through a lot, but as you see that beautiful photo, the child holding up the American flag painting he made. This is all about a dream that is New York City and that is America. We met immigrant after immigrant, who came here, talked about their love for this city, love for this country. How all things have become possible being here. Even in the midst of the challenge they were going through and the pain they were going through, they expressed their thankfulness for everything that they had been able to achieve here, everything they had received here.

We want to live in that spirit. So, we're going to continue any place anybody's been hit by the storm and needs help, I want to remind all New Yorkers, call 3-1-1. There's a huge amount of help available. And as we were going door to door, talking to neighbors yesterday, and the other sites I've been, constantly reminding people, we're going to help them with every step of this process to get back on their feet. Our public engagement unit is out there. This canvassing operation, this is something that government historically hasn't done, or hasn't done enough of. We're doing this on a big scale. 10,000 doors will be hit by our public engagement unit and by community organizations that we're working with, just like we did in the census. We're going to the most affected areas. We're going to talk directly to people who need help, make sure they're signed up for the benefits they deserve. We're also using a text program, over 185,000 texts have been sent into the most affected areas, reaching neighbors who have been hit the hardest, letting them know of all the services that are available. Obviously, everything being provided is for free. Free water pumping by DEP if anyone still needs that. They've been out and around. Hotel rooms are available for anyone who needs it, especially if they've been through so much, whether they want to stay in a hotel for weeks, or they just want to stay there for a day or two to recover from what they've been through. We have it for them. The Red Cross doing an amazing thing. Debit cards, \$515 to immediately replace some of the personal belongings that people need the most. What the Met Council is doing, the one-time payment for rent, for one month's rent. Extraordinary and immediate efforts. Of course, FEMA, \$36,000 for each homeowner. We want to process those applications immediately. We want to help people do that and get the money they deserve. And that's before you even discuss the

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used and other support that would be available to businesses and to homeowners. If anyone needs food, obviously we distributed hundreds of millions of meals during COVID. The City can move immediately if anyone needs food, all you have to do is call 3-1-1. And as we mentioned yesterday, waving construction filing fees for flood repairs. We want to help people to make the repairs they need, not stand in the way, not cost them additional money.

Also, some of the homeowners yesterday, and they were very honest about having tenants in apartments that still were not fully up to code, those basement apartments we've been talking so much about. I want to emphasize, our Housing Department, HPD will not, will not be issuing fines for those basement apartments. Those unfortunately illegal basement apartments in the areas affected most deeply by Hurricane Ida. We will not be issuing fines for the rest of this year. Our goal is to make sure that folks can get back to those apartments, that they can be made whole, that people have a place to live. We've got a lot of work to do on the basement issue. It is a very, very difficult one, but right now we don't want to put homeowners in a double jeopardy, they've just been through a horrible storm. We don't want to hit them with additional fines. We don't want to have a situation where someone who was living in a basement apartment has nowhere to live. We got to get people whole right now, get them to where they were before the storm, and then work to address the bigger problem. And that's going to take City, State and federal government. Because the magnitude is in the many billions of dollars to solve that problem.

Now I want to thank the City agencies from the beginning of this challenge with the hurricane, our first responders did outstanding work, saved many lives, extraordinary work in absolutely extraordinarily painful circumstances. Since then, agencies have been out in force. Department of Buildings has inspected over 2,000 homes that were hit by the storm. Again, the hotel programs had been available. Relatively few, right now it's under 300 people who've taken it up, but it's available to anyone that needs it. The tow truck task force for Emergency Management has moved over 1,400 cars. The City Cleanup Corps has been out there all over the city removing tens of thousands of bags of damaged items. Small Business Services, helping hundreds and hundreds of businesses. We're seeing a lot of work being done on the ground and we want to finish the mission. Anyone that needs help, you can call 3-1-1. You can go to nyc.gov/ida. And we're going to help people get back on their feet. We're also going to intervene aggressively if anyone's trying to do wrong by someone who is suffering right now. We're hearing a few reports of price gouging, some homeowners being ripped off by plumbers and other folks who are supposed to be taking care of their needs in the middle of the crisis. This is not a comment on any trade, it's some individuals who are doing the wrong thing. But anyone who is price gouging, anyone who is taking advantage of a homeowner who's suffering or a small business owner who's suffering. We're going to get them. And we're going to penalize them. Call 3-1-1 if you have any information or anything like that happening, we want to hear about it. We're going to act immediately.

The other thing I want to mention, incredible cleanup effort. I have over the last eight years, had many an occasion to talk about our Sanitation Department, the men and women of Sanitation who are extraordinary, who don't get the credit they deserve for what they do day to day. Sometimes it gets some credit in the worst of times. I want them to get credit all the time because they keep the city running. After Sandy, their compassion towards people who had lost so much was amazing. They understood how important it was to get the debris out of the way, help people move forward. What they do in snowstorms is legendary. They're at it again now doing something amazing to help everyone back on their feet, clearing massive amounts of debris quickly, nonstop since Thursday morning. I want you to hear about from someone who's doing an extraordinary job leading that agency and a career veteran of our Sanitation Department, Commissioner Ed Grayson.

Commissioner Edward Grayson, Department of Sanitation: Good morning. Thank you, Mr. Mayor. Yes. The Department of Sanitation has continued to work through, around the clock helping the residents affected by flooding. Helping them trying to recover. We have crews in every impacted neighborhood in all five boroughs. Key message for today, sir, and to the City, if you have storm debris in your home, you can place it out for collection at any time. I spent the entire weekend at the field and I saw firsthand, devastation, destruction, the despair. I've spoken directly to the residents, Middle Village, Woodside, Bed-Stuy, Jamaica, East Elmhurst, Westerleigh, Mariners Harbor, Throggs Neck, Williamsburg, and Bushwick. And that's just a handful. You know, it's a big list, but we have so many people impacted. And it impacted the city in different ways, in different spots. But we heard their stories of loss. We've heard and saw the irreplaceable keepsakes and documents that they have had to, you know, come to terms with losing. The furniture that they've lost, the memorabilia, the food, and of course their livelihoods. Most sadly is the heartbreaking story of the human loss and those impacted areas where we saw that. The message today for everyone affected by the storm is we are here for you, no matter how long it takes, we will be there. Sanitation workers have so far since the start of the storm, have worked over 42,000 hours on debris removal and storm recovery since Thursday. We've collected at least

9,100 tons of debris throughout last night. And there's still more coming. We will not stop until the job is done. I want to thank our Sanitation workers and I want to thank the local command officers, as well as all the ancillary support staff at DSNY who've been working throughout this effort, who are committed to this effort. They have proven yet again, that they are heroes and that they are there for the people we serve. And to all New Yorkers impacted by this flooding, we are there for you, we will continue to be there for you. And thank you, sir.

Mayor: Thank you so much, Ed. I want to emphasize that stunning number, 9,100 tons of storm debris that's been cleared by Sanitation, helping people to move forward and helping them to overcome this horrible challenge. That's extraordinary, Ed. I just want you to please thank all the men and women who serve under your command because this is an extraordinary contribution of getting people back on their feet. So, thank you very, very much.

Now, yesterday we saw a neighborhood hard hit. I talked to so many of the homeowners, heard about their experiences, heard about their lives, heard about what they had gone through, what it meant to them that the help was coming. And every single person said they were so appreciative to see that the City was out there in force to help them. And we said, we're going to stick with them until each and every one of their concerns and needs is addressed. Someone who was there and has been representing communities throughout Queens that have been hit hard including Corona, including Elmhurst, that really went through so much. And he's been on the ground, helping his constituents nonstop, I want you to hear from Council Member Francisco Moya.

[...]

Mayor: Thank you so much, Council Member. Thank you, you've been out there, really appreciate your effort. All right, everyone, we are in the process of helping everyone get back on their feet, but we're also keeping an eye on the weather that's coming. Now, this is abundance of caution. We're seeing a very small report at this moment, but, again, what we're going to be doing from now on is giving people information with a sense that we know how rapidly weather is changing now like nothing we've ever seen before. So, right now, we've got rain and thunderstorms this afternoon into tonight. The current forecast is half-an-inch to one inch of rain, with the highest chance of heavy rain around midnight. That, normally, would not be an issue at all. Obviously, we're concerned about folks who were hit that any new water could be a problem. And we're also concerned that we could see more than is projected. So, we want to get people to hear immediately there is some rain coming this afternoon, tonight, particularly again around midnight. We want homeowners and business owners to know that so they can take precautions, but we're also going to have our teams out. DEP will be out in force, cleaning catch basins, focusing, obviously, on any areas that were hit hardest by Ida. DOT crews will be out to work on roadway issues if we see any. Sanitation is already out 24-7, they're staying out 24-7 to resolve everything from the storm. They'll keep an eye on catch basins too. So, any changes that we see in the course of the day we're going to be getting immediate alerts out on.

All right. Now, it's just a few days till something very, very important – one of the most important days of the year, every year – first day of school is a powerful moment for kids, for families. It's something parents look forward to, kids don't always look forward to, but it's an amazing important day any year. But this year, the first day of school in New York City is going to be one of the most powerful moments since COVID began. This is going to be a moment where we come back, because every single school child is coming back to school on Monday, September 13th. This is going to be one of those game-changer days, one of these days that we'll remember when we turn the corner on COVID. So, right now, we're seeing incredible work and I want to thank our Chancellor and everyone at the DOE for the work they've done. I want to remind everyone, by the end of last year, last school year in June, we saw almost non-existent levels of COVID in our schools, because the health and safety measures were so extraordinary. Literally, the last days of school, 0.03 percent positivity in our schools. We took every conceivable health and safety measure from around the world, used them all, created that gold standard – the masks, the ventilation, the cleaning, you name it – and it worked. And we saw that with Summer Rising as well. Summer Rising, hundreds of thousands of kids. Even with the Delta variant out there, Summer Rising was extraordinarily successful and very, very little disruption, which is a real credit to everyone in our schools and what they do every day right down to the individual school, the staff, the custodians, the principals, the teachers, everyone, and, of course, the leadership of our school system, looking at the whole picture, working with our health colleagues. But now, we have even more, because not only do we have 5.5 million New Yorkers who have had at least one dose of the vaccine, almost two-thirds of our kids 12- to 17-year-old has had at least one dose of the vaccine, but every single adult in the schools will be required to be vaccinated. That's going to make an extraordinary impact. And we're continuing this big push with our Vax to School campaign, and more and

more parents, more and more kids come in all the time.

We want you to see how much is being done to prepare our schools again to be the safest place to be in New York City. I want you to see a video that really exemplifies this.

[...]

Mayor: So, that video gives you a flavor – just, extraordinary effort being made. And I want to turn to the person who is leading the way. Our Chancellor from the beginning was clear, we're bringing back all our kids, our kids need it, particularly those who have not seen the inside of the classroom for a year-and-a-half, which is absolutely something that has to end, but we have to do it safely. She's been demanding the most rigorous standards for the entire school system, and they're being achieved. I want you to hear directly from our Chancellor Meisha Ross Porter.

Schools Chancellor Meisha Ross Porter: Good morning. And thank you, Mayor de Blasio. We are six days away from the first day of school, and I am so proud to be here alongside my colleagues Kevin Moran, and Rob Williams to talk to what is being done to ensure every building is the gold standard of health and safety this year. Last week, 234 schools across the city took major damage from Hurricane Ida. That damage ranged from a small amount of basement flooding to entire boiler rooms filled to the ceiling with flood water. Without missing a beat, our amazing facilities team were in buildings in partnership with the School Construction Authority and the Office of Emergency Management, assessing damage and immediately beginning the hard work of bringing buildings back online. These dedicated professionals worked around the clock as they have throughout the pandemic and through their Labor Day weekend to ensure that every building is ready to go by the first day of school. As of last night, 228 of the 234 buildings are fully operational and we expect work to be completed on the remaining buildings by Monday. That same energy has been directed at preparing buildings for the return of students since the spring of last year. In every building, in every neighborhood across the city, devoted members of our facilities team are checking every space to ensure it has the ability to bring in fresh air and get rid of old air. They are ensuring that schools are stocked with PPE and signage is available to help direct students. I'm going to let Kevin get into the details, but I want to emphasize that we are ready for this school year. And a team of facilities experts are laser focused at ensuring our schools open with the gold standard of health and safety measures on Monday.

Mayor: With that, Kevin Moran. Kevin Moran is the head of school operations. He's done an absolutely amazing job with his team, really one of the heroes of this effort with an extraordinarily devoted team. He's going to make this very visual to you, all of the different tools that are being brought to bear to keep our kids safe and our whole school team safe as we go into this new school year together. Kevin Moran, take it away.

Chief Schools Operations Officer Kevin Moran, Department of Education: Thank you, Mayor de Blasio. And thank you, Chancellor Meisha Porter. My name is Kevin Moran. I am the Chief Schools Operation Officer for the Department of Education, and I oversee over 1,400 school buildings that comprise our city system. Every day, I visit schools across the city and I meet with parents, I meet with educators, and I meet with school staff, and they all have one question – is my building safe? I'm here to tell you today that, yes, our buildings are safe and for all staff and we're ready for opening. And we have a plan for this fall for each school within our system. In a moment, you'll hear from Robert Williams, our maintenance planner from the Bronx, to talk a little bit more about what this work specifically means to him as he goes to work every day in the communities in which he serves.

I'm going to walk you through our multi-layered approach to prevent the spread of COVID-19, all following in a full alignment with the CDC guidance. Every layer works together. And if one layer is not possible, like masking during lunch, then other layers pick up the slack to keep people safe. Each layer is very much important, but no layer carries the entire burden of keeping our kids safe. First, we know that ventilation, the ability to bring in fresh air and exhaust old air, is one of our best tools to prevent the spread of COVID-19. Last year, we had all of our buildings citywide inspected by independent third-party engineers and those results were then posted online, as you heard in the video.

We work daily with all of our independent professionals and our facilities teams and labor partners to be sure that we're prepared for the first day of school. We make needed repairs to our buildings to keep them safe and we continue to maintain those buildings at the highest of standards. Ventilation is provided through natural causes, through natural means through windows, machines, or combination of both methods. If a building was designed to provide fresh air through windows, we are ensuring those windows are open and provide the necessary amount of airflow. The buildings in this

category are mostly our older buildings that were specifically built in response to previous pandemics and have large windows meant to bring in large amounts of air. If a building was designed to provide fresh air through machines, our teams are making sure those are running at the highest level. We installed MERV 13's, much like you'll see here, and MERV 14 filters in our HVAC units. And the majority of our air conditioners actually have these items installed most recently that fit in all the air conditioners. And I'd like to thank the Mayor for his unprecedented investment in air conditioning in our instructional spaces, to which all will be completed by the end of this year.

Making sure windows and machines create the right ventilation at the beginning of school year is a major part of a multi-layered approach to health and safety. We need to also to rigorously inspect these classrooms to make sure they continue to function throughout the school year. We arm every custodian with advices to check. And you can see the CO2 reader is one that every custodian citywide has to, one, test temperatures in their spaces, but also the CO2 to make sure that the air is being exhausted as students occupy this space. Custodians are also provided with anemometers. This is something that our custodians use to actually monitor and assess cubic feet per minute air exchanges. They actually give custodians a read on the air exchanges in every classroom citywide. So, we work in partnership with our custodians and our principals to ensure – and our teachers, to make sure every class has proper ventilation. And if there's a reason that it is not functioning properly, we take the room offline and we make sure that we investigate and make repairs to that system.

Our facility staff has nearly two years of experience now keeping our buildings safe during the pandemic. They are maintaining deep cleaning techniques that put in place last year and utilize electrostatic sprayers, much that you see here. We have a large backpack electrostatic sprayer. This is commonly used in our large spaces, hallways, all the corridors, stairwells, cafeteria spaces, etcetera, the smaller handheld electrostatic sprayers is popular for smaller spaces and actually on our school buses, because there's tighter areas in our school buses. They continue to make sure all high touch surfaces are cleaned and every room is disinfected on a nightly basis. No school leader will have to go without worrying about providing PPE for their students and staff, much of which you see here. Every school will have a full 30-day supply on hand at all times. This includes masks for our smallest learners, much like we have here, and extra protective equipment for educators who are in close contact with students who cannot tolerate a mask at this time. And so, that would include additional face shields that you'll see here, KN-95 masks that you'll see there, vinyl gloves if necessary. And we make sure that our incredible nurses are staffed and they have a complete assortment, including N-95 masks.

Last year, when the supplies were in huge demand nationwide, we made sure every school was prepared for every student and we'll continue to provide that level of supplies to every school this year. I want to take a moment to thank our facility staff. When you think back to April 2020, we were not sure if our schools would reopen in a matter of weeks, months, or even later. While the city was hunkering down, our facilities teams continued to report to schools to prepare them to welcome back every student at a moment's notice. Last August, they moved mountains to prepare every building for the return of every single student and staff member – all 1 million. They never gave up. They never stopped working. And they're at work right now, making sure our schools are ready to bring back students safely on September 13th. Thank you, sir.

Mayor: Thank you so much, Kevin – amazing report. And you can see, everyone, everything is being done to protect our kids and our school staffs, no expenses being spared, whatever it takes. I want you to hear from one more person who's on the frontline of this. He's been a real hero in this effort and his story is powerful. Robert Williams had COVID himself back in March 2020. He went through so much. He fought through it, thank God, but he knows the impact of COVID. He felt it. He experienced it. And he wants to make sure that we protect every child, every staff member. He manages maintenance for all of the Bronx schools. It is a personal mission for him to keep everyone safe. I want you to hear now from Robert Williams.

Borough Maintenance Planner Robert Williams, Department of Education: Thank you, Mayor de Blasio, and Chancellor Meisha Porter, and Kevin. My name is Robert Williams. I'm a maintenance planner with the division of school facilities serving in the Bronx. And my care is every single Department of Education building in the Bronx. I want to briefly talk about the work that my team has done in the Bronx, work that I know is being done citywide, and in every borough. When the COVID-19 pandemic hit our city last year, we never left these buildings. The only thing that changed for us – the only thing that changed for us was that the city had less cars on the road, so we got to work a little quicker.

[Laughter]

This was a scary time. I, myself, got COVID-19 and so did a lot of my staff. We were all operating in a world without information, but the one thing I knew was that we needed to make sure our buildings were ready for the return of the young people at any given moment. As soon as the CDC started providing guidance regarding ventilation and safety measures, my team started inspecting buildings and making enhancements. My team took small, but powerful actions, like opening windows that have been still sealed for years for various reasons. They also looked at schools like Lehman High School and identified major building wide repairs that needed to be made to make it fully operational. We also spent over \$5 million in enhancing Lehman High School not only just in the ventilation, but just in the construction of the school. Whether the ventilation is being provided through windows or machines, we made sure rooms were safe for all young people. My commitment is what drove me. It was a focus on making every building in the Bronx safe enough that I would feel comfortable even enough for my own children to go there.

The work we did was confirmed by independent inspections and [inaudible]. We all know that things break, so our teams are laser focused on maintaining that high standard no matter what it takes. After all those inspections, and adults, and experts, the thing that truly validated our work was the sight of young people and their smiling faces, being able to return and into our buildings. A school with our children is just another random building. We do this work solely from our heart and for the children. This was a team effort. Every member of the Bronx team came to work every day. We looked over every inch of every building and prepared to welcome back every single student. All of this work and measures mentioned by Kevin, by the Chancellor, and by the Mayor, in addition to the great work [inaudible] we do this every single day of every school year to keep the building safe and create quality spaces for the city's young people to receive an excellent education.

Mayor de Blasio, it's my pleasure. I'm here today to tell you that every building in the Bronx is ready to welcome every student back on September 13th.

Mayor: Thank you so much, Robert. Robert, I really appreciate – I can hear the passion in your voice and your commitment. And thank you. Thank you to all the folks who work under your leadership. Every adult is doing everything to support our kids. That's what we see happening in our schools. And so, I want to say, I'm so proud of everyone at Department of Education. I'm proud of their commitment to our kids. And we're ready for opening day of school on Monday, but we do need help from the federal government. I want to talk about this now. This is the area where – one last piece that would make a world of difference. I told you when it comes to the 12-year-olds to 17-year-olds, almost two-thirds have been vaccinated already and school has not yet begun. And we're going to get a lot more kids in the coming days, but we need help with those younger kids – the five- to 11-year-olds. Look, the federal government – I know this is a priority, but it needs to be the highest priority. I'm calling upon the FDA, set a timeline, set a goal that we all can hear. Parents need to hear this. And we need to hold everyone accountable to getting this vaccine ready. Of course, doing it safely, doing it the right way, but it needs to be a matter of supreme priority, because this is the last piece – we get our five- to 11-year-olds vaccinated and we have everything that we need. I want you to hear about why this is so important and from someone who distinguished herself during the COVID crisis. I really appreciate this about her, she did not need to go back out and help people on the frontline as a medical professional. She's a member of the State Assembly. She had plenty to do in that job, but she chose to go out and serve people directly on the front line, and then went right back, and made sure that legislation was passed to protect working people in the midst of the COVID crisis – really, really admirable work. And she's going to tell you how important it is to speed this vaccination for our youngest New Yorkers. My pleasure introduce Assembly Member Karines Reyes.

[...]

Mayor: Thank you so much. And I think you're going to have a lot of company on that line the first day that the new vaccine for the five- to 11-year-olds is out. I think you're going to see parents all over the city immediately bringing their kids to get it, but we need it to come here as quickly as possible. Thank you for your advocacy, Assembly Member. Very much appreciate it.

All right. Now, we've talked about a lot already, but I want to talk about public safety. Yesterday, you heard a fantastic report from Commissioner Shea and Chief Harrison about extraordinary impacts being made, turning the tide on public safety. We've got a lot more work to do, but one of the things Commissioner Shea focused on was gang takedowns and how crucial they are. It's a small number of people do the violence, we're going to get each and every one of them. I'm going to give you just a very broad initial read on something. You're going to get the details on later on today, but in Harlem and Upper Manhattan, a major gang take down, it's going to be announced the details later on today. Dozens of members of a gang who did multiple acts of violence. I want

to thank the NYPD. I want to thank the Manhattan District Attorney. These gang takedowns are making a world of difference and they're coming more and more frequently. So, this is very, very important for how we turn the tide, move this city forward, move a whole recovery. We're going to see takedown after takedown. We'll need the court system to help us then, follow through and bring the consequences. But a great credit to NYPD and Manhattan DA's office for this effort.

But now, we talk about safety – we're also working very, very hard right now to make sure that the days ahead are safe in this city as we look forward to a very somber moment, the 20th anniversary of 9/11. The minute you say 9/11, for so many of us, we immediately remember not only where we were when we heard what had happened, but we remember the people in our lives who are lost. I remember the people I knew and the families I know who lost people. And it's 20 years later, but we still feel it so intensely. And this wound will never entirely heal, but we need to keep everyone safe. That's how we pay honor to all we lost to keep them safe, keep their families safe, keep this city safe now. We have a major anniversary coming up and the eyes of the world will be on New York City, which means we have to take extraordinary precautions to protect all New Yorkers. I want to say the most important thing upfront – as of this moment, there is no specific and credible threat directed at New York City. We have an extraordinary counter-terrorism capacity. We are watching all the time. We're going to have deployments all over New York City in the days ahead and particularly on 9/11, not just at Ground Zero, but all over New York City. And we are watching, because we know the ways of the terrorists. We understand this anniversary is going to be on their minds too. We've seen some attacks recently around the world that are worrisome, which is why we monitor all the time. You're going to hear from the leaders of our counter-terrorism effort about the preparations being made. I want to make one point in particular – Ground Zero not just on Saturday, but every day is not a place for any visitor or any resident of the city to ever use a drone. Some people ostensibly innocently have had drones and used them in that area to take photos – unacceptable, not going to be tolerated, they're going to be confiscated. That's not a place – it's too sensitive and too much has happened. So, I just want to make that very clear to everyone.

But now, I want you to hear about the specific precautions and preparations that are being taken and the vigilance that's underway. First from our Chief of Counterterrorism, doing extraordinary work, continuing this tradition of the NYPD over the last 20 years. My pleasure to introduce Chief Martine Matarasso.

Chief of Counterterrorism Martine Matarasso, NYPD: Thank you, Mr. Mayor. 20 years after the attacks on September 11th, the NYPD is much better equipped, trained, and prepared to prevent a terrorist attack in this city. Working alongside our intelligence bureau, the Port Authority and our federal, State, local, and private partners, we have developed a robust security overlay for the upcoming ceremony, marking the 20th anniversary of the September 11th attacks. There will be measures in and around the World Trade Center site that the public will see and there will be many that they won't. This plan has been in development for many months and it couldn't have happened without the seamless coordination between all agencies and organizations. We will be using all of our counter-terrorism resources to ensure a safe event. These include explosive detection canines, heavy weapons teams, explosive detection instruments, license plate readers, radiological and chemical sensors, and countless cameras. Magnetometers will be used to screen every person that enters the Plaza. Our bomb squad will vet the World Trade Center site prior to the event and will remain for the duration. The Joint Terrorism Task Force will investigate any threats prior and during the ceremony. We will have plainclothes officers around the perimeter of the site to locate any suspicious people or activity. We will also have the counter drone detection teams that will mitigate if necessary. But, as the Mayor stated – please, it's a reminder, it is illegal to fly a drone anywhere in New York City. The operator could face criminal and civil penalties and the drone would be confiscated. So, we please ask you, don't do it.

We are able to devote these resources while still securing locations around the city that could potentially be a target. Our daily counter-terrorism deployment will not be affected by what we have deployed at the World Trade Center ceremony. These various layers of security are the result of and a shining example of the tireless work of the men and women of the NYPD. We are confident that the ceremony will be safe and secure, and we will continue to keep our promise to never forget all those lost on that tragic day. And please remember, if you see something, say something to a local law enforcement officer or call 1-888-NYC-SAFE. Thank you.

Mayor: Thank you. I now want you all to hear from someone who has been not only a leader here in the city, but a global leader in the fight against terror. He's managed our counterterrorism operation for a years now effectively against multiple threats. So much I could say, because I've been shoulder-to-shoulder with him for these last eight years, but the record speaks for itself. And a lot of credit I give to you and your team, Deputy Commissioner for Intelligence and Counterterrorism John Miller.

Deputy Commissioner of Intelligence and Counterterrorism John Miller,

NYPD: Thank you, Mr. Mayor. As you stated, but it's worth restating for the third time, there is no specific credible threat to 9/11 or the events around it. But as you're also aware, sir, because you sat through your threat briefing yesterday, we are treating this as an elevated threat environment. So, absent specific information why, here's why – we've seen the call to action this year be louder and better organized from terrorist groups than we have seen in prior years. That is probably because this 9/11 remembrance marks the 20th anniversary, but it also comes at the same time as the fall of a U.S. supported government in Afghanistan, the return of the Taliban, and other factors that are stirring those conversations. We have noted in our observations over those platforms more than a dozen significant propaganda releases, many of them are geared towards English language audiences, two-thirds of them coming from Qaeda, which has suffered, along with ISIS, significant losses in terms of territory and commanding control over recent years. So, we are – we are paying attention to that drum beat. We've seen the Al Qaeda magazine, Wolves of Manhattan, which is named for the 9/11 hijackers, come out with a new issue. We've seen the inspire guide, another terrorist publication circulating. We've seen a trailer for an Al-Qaeda film that is supposed to come out soon. So, we take note of all of that and factor that into our threat assessment and plans.

Accompanying that, as the Mayor pointed out with the call to action, has been action. We've seen three significant terrorist events around the world, obviously the attack on the airport in Afghanistan, another attack involving a knife and multiple victims in Auckland. But one closer to home in Plano, Texas. We look at each one of these to examine what propaganda was the driver, who was the person behind it, and we are always scanning our environment. Those incidents aren't linked in any way, except for the common thread of people acting individually on ISIS propaganda. So, starting from the premise of no specific credible threat, we operate – and that's Chief Matarasso, Martine and her people, Chief Tom Galati and the Intelligence Bureau and his team. We operate on the idea that there is a threat out there and that we have to continuously hunt for that before the event, during the event, after the event, and not just at the event, but around the city. As Martine pointed out, our counterterrorism deployment around these days will not just be at the 9/11 Plaza, at the U.S. Open where we have a very layered counterterrorism deployment, but around the city, because around this time of year, of course, we pull out all the stops. And we've stepped it up this year not because of specific information about something in New York, but because we want people to see it, we want people to know they're safe, we want people to know that we're here and that we're protecting that event in this very important time of remembrance. Mr. Mayor –

Mayor: Thank you, John. Really appreciate the thoroughness that everyone at the NYPD is utilizing. This is literally a case of not taking anything for granted and being ready for everything. So, expect, again, a lot of presence in these coming days to keep us all safe.

All right, let's do what we do every day and talk about the indicators. And the first item I go over always is the doses administered. We're coming up now on 11 million doses. It's extraordinary – 10,901,787 doses administered of the vaccine to-date. The numbers have been very strong in recent days and we expect a continued uptick as mandates come into play as kids are coming back to school. So, that number is going to keep growing and keep us safe. Number two, daily number of people admitted to New York City hospitals for suspected COVID-19. Today's report is 98 patients. Confirmed positivity level, 15.45 percent. Hospitalization rate per 100,000 New Yorkers is 1.25. Finally, number three, new reported cases on a seven-day average – today's report, 1,327 cases. I'm going to say a few words in Spanish. I want to go back to schools opening up Monday and all safety measures in place for our kids and our staff.

[Mayor de Blasio speaks in Spanish]

With that, let's turn to our colleagues in the media. Please let me know the name and outlet of each journalist.

Moderator: We'll now begin our Q-and-A. As a reminder, we're joined today by Chancellor Porter, by Kevin Moran, the Head of School Operations for the Department of Education, by Martine Materasso, the Chief of Counterterrorism, by John Miller, Deputy Commissioner of Intelligence Counterterrorism, by Commissioner Grayson, Commissioner Scrivani, Commissioner Doris, Commissioner Sapienza, by Dr. Dave Chokshi, and by Dr. Mitchell Katz. First question today goes to Marla from WCBS 880.

Question: Good morning, Mr. Mayor.

Mayor: Good morning, Marla. How are you doing?

Question: Good, how are you?

Mayor: I'm all right. We've got a lot going on as you can see.

Question: Yes, very busy press conference, but you didn't mention anything about the Macy's Thanksgiving Day Parade, and I hear that it's going to take place this year?

Mayor: Well, obviously, we had a lot of other more immediate things, but we're very hopeful. We're working with Macy's that we can do this the full way, the right way, which I think will be a great moment for the comeback of this city. So, we'll get more and more details out as it gets closer, but that's looking like a good news situation. Go ahead, Marla.

Question: Okay, and more urgently, as you said, school begins in six days for 1.1 million students. Can you speak – I know you spoke a lot about, we learned a lot about what's being done to keep the schools clean and disinfected, but can you speak about COVID testing in the public schools? Will it be as rigorous as it was last year and what should parents and students expect?

Mayor: Yeah, it's going to be a consistent approach across the entire school system, every school on a biweekly basis. We can increase that anywhere we need to at any time, but we also have to pay attention to what's different from last year. The level of vaccination is night and day. We went into last school year, there was no vaccine, and then for much of the school year very few people had gotten it. We're now at a situation 5.5 million New Yorkers have gotten at least one dose, two thirds of the kids in the eligible range. It is night and day from where we were. So, we have the situation room up and running, we have regular testing every school, we can increase testing anytime we need, and in combination with the most important thing, which is vaccination, we're confident this is the way to keep our kids and our staff safe. Would you like to – well, would one of you'd like to add?

Chief Schools Operations Officer Moran: Well, I'd just like to add further some of the items that will keep kids safe and staff safe, and the buildings are inclusive of this electrostatic sprayer, custodians will walk through the building and definitely sanitize every space. They have the handhelds that I referenced before, we have these air purifiers, not only one, but two. The difference last year is you know, we had one purifier, we doubled down an additional air purifier in our classrooms, and we also have them for the larger spaces. In addition to our cafeteria is we'll have these purifiers in spaces make the kids are safe – make sure kids are safe and staff, but also exhaust there's improving ventilation. So, we're taking every step necessary to make sure we improve that indoor environment.

Mayor: Kevin has now learned how to visualize and make her make visuals situation. Let's hold up the monitors to and explain again – hold over here, the handhelds, of what our staff uses to monitor the air quality. Explain that one more time.

Chief Schools Operations Officer Moran: So, this year what's critical –

Mayor: Hold them up high. Come on, we're going to get you used to TV here, Kevin. There you go. Look at it, he's getting it next to his face, that's good. Meisha, takeover. Takeover Meisha.

Chief Schools Operations Officer Moran: So, the CO2 readers is brought into a space to assess how many particles per million of CO2 is present in the room, and so we want to actively monitor that. If we see a rising over a thousand particles per million, we realize that we should actually check the systems and make sure they're exhausting the air that students exhale. So, this is a real good reader, custodians use it daily, and when we see it change seasons, want to make sure the temperature of our spaces stay at room temperature. So, we want to use that. The anemometer, while not included in the CDC guidance, we went a step further. The CDC guidance says make sure you have the presence of functional ventilation, so we use these tools to assess. The anemometer is probably our most critical tool and actually putting it towards an exhaust fan or an intake and measures the actual CFM coming into a space. It's critical then to then put into a formula, and I'm not a generation X-er, but there's an app for that.

Mayor: There you go.

Chief Schools Operations Officer Moran: There's the length, there's the width, there's the height, and then it's a CFM and you put it in your app, and it actually tells you, you have five air exchanges per hour, you have 10 air exchanges. We went to a local high school nearby at Seward Park and we're getting 20 air exchanges an hour. So, that is well an exceedance of any standard [inaudible] put out there as well as we

did Murry Bergtraum recently, we saw them kicking over 19 in our stairwells. We saw them, you know, up very high in one instance, pulling open a door, it was a hundred air exchanges in an hour, which is really, really, really high. So, in those spaces too we're factoring in, but all of these tools, all these – this is probably one of the ones we're most excited about because this was new product that was created just for our air conditioners to make sure we have an extra layer in the summer months while running our air conditioners, this [inaudible], this is a MERV 13 filter, just like the MERV 13 filters that we sourced early in the pandemic for our larger HVAC systems. So, we definitely have a multi-layered approach. One to make sure we have everything sourced and the city has been wonderful making sure we have supply chain uninterrupted, and my thanks go out to SCA, the School Construction Authority, and the DCAS team to make sure we have what we needed but getting these level of details is real important too, to provide parents with a level of transparency and trust that we're doing things.

Mayor: Yeah. And can everyone hear him okay? Is he mic'd? Okay, go ahead, Kevin. There you go. Kevin, you're getting better at this as you go along.

Chief Schools Operations Officer Moran: Yeah, I appreciate that.

Mayor: Learn by doing

Chief Schools Operations Officer Moran: Is this on? All right. So, this actually is a response to our larger areas, and we looked at the state guidance and we looked at the CDC guidance and it talked about relying on the layered approach to health and safety. And so, when a student demasks to break for lunch and to eat, we make sure that we bring in additional layers. This air purifier is – it's able to purify 3,000 square feet, which is a very large space. In some instances, we'll bring in two. And we also in a window environment, we put in the upper sash exhausters that also increase our air exchanges per hour, and the CFM off those are very much notable in the change in the increase and how we turn the air over. We use that exclusively in some of our schools that were having issues potentially getting to three feet, but we wanted to make sure that they had all those layered approaches in environments where they're actually taking their masks off.

Mayor: Excellent. Thank you, Kevin. Thank you, Chancellor. Okay, let's continue.

Moderator: The next is Elizabeth Kim from Gothamist.

Question: Good morning, Mr. Mayor.

Mayor: Elizabeth, how you been?

[REDACTED] could you give us the City's negotiations with the teacher's union over the summer? Some staffers are on strike?

Mayor: Elizabeth. Those negotiations continue. We recognize there are definitely, in a few cases and we're going to be very clear, you know, all the information is accurate, if someone cannot be vaccinated, of course there's grounds for a valid, medical exemption. Equally, and in very few cases we expect, but there are [REDACTED] but those cases will be honored, but again, expect [REDACTED]

Question: Secondly, our education reporter, she's hearing from families who say they're just not ready to send their children to school because they're afraid of the Delta variant. What's going to happen to parents who decide just to keep their kids at home [REDACTED]

Mayor: Really important question. I'm going to start, and I'll turn to the Chancellor. We've talked about this in detail. But Elizabeth, look, again, I understand there's a lot of fear still, a lot of very honest concern, there's also, sadly, a lot of misinformation out there. The message that I want to give and I'm going to get Dr. Chokshi into this as well, is how important it is to have our children back in school, particularly the kids who have not been back for a year and a half. It's just not acceptable for them to be out. So, we're saying to all parents, bring your kids back, look at everything that's being done to keep them safe. This is going to be the safest place for them to be literally, and we know this, Dr. Chokshi will speak to this, I'm actually going to have him go ahead of the Chancellor, and then she'll speak to your very specific question. We know that being out

in the community during the day is much less safe than being in a school with all these protections, all this cleaning, all this ventilation. So, I say to all parents, as someone, myself, was a public school parent, best place for your kids to be as in school. If in the beginning of the school year, a parent's not ready, we're going to keep talking to them, we're going to keep trying to convince them. If that goes on for a while, then that's a different scenario the Chancellor will speak to. But I do think you'll see a small number of parents who would take a little bit of wait and see at first, and then we'll bring in their kid pretty quickly after the beginning of this school year. But I think the vast majority are going to show up on day one and are ready. Again, why it matters so much from a health perspective to get kids back to school, Dr. Chokshi, please let people hear what you think on that topic.

Commissioner Dave Chokshi, Department of Health and Mental Hygiene: Yes, sir. Thank you so much. And thanks Elizabeth for this crucially important question. Where I stand is in lockstep with the American Academy of Pediatrics, which has said in its guidance on school reopening that all considerations for school COVID-19 plans should start with a goal of keeping students safe and physically present in school. So, let's just take both halves of that. The first part of it, the goal of keeping students safe. As the Mayor has said, and as the Chancellor and Mr. Moran went through, the Department of Education has put in place this layered approach to mitigating the effects of COVID-19 in schools to make them the safest place that the children can be in because of the fact that we have widespread vaccination protecting people, because we have all of the interventions related to ventilation, universal mask use, testing as appropriate, as well as the simpler things that sometimes we don't emphasize, but making sure that kids are staying home, if they're feeling ill and doing all of these things in concert because we know that each individually is important, but together they are the foundation of our approach to safety. And then the second half is about the importance of in-person learning, of actually being physically present in school. And you've heard about this for me before, as a doctor, this is important to me not just for educational reasons, but because we know it's so important for the long-term physical and mental health of our kids not just for next week, not even for the entire school year, but over their life course. We know that that is going to be crucially important to their development and their health. Thank you.

Mayor: Amen. Chancellor, about what happens after a few weeks in if a parent hasn't gotten their kid to school.

Chancellor Porter: So, what we've never disagreed on is that in-person learning is the best learning for all of our students. And so, we're looking forward to having our principals and our school communities and the social workers that we've added to our communities to work very closely with families to get our children back in school. And ACS is our partner, and ACS is very clear that their goal is the same as ours, and that is to help get our babies into school. The only time the ACS will intervene is if there is a clear intent to keep a child from being educated, period, which is a very different thing to deprive a child of an education, but we want to work with our families because we recognize what families have been through. And so, with all of the supports and the multi-layers of protection that we have in place, we believe that we can work together with families to get babies back in school.

Mayor: Amen.

Moderator: The next is Christina Veiga from Chalkbeat.

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Transcript: Mayor de Blasio Holds Media Availability

September 23, 2021

Mayor Bill de Blasio: Good morning, everybody. Queens Week continues, and today we're going to focus on public safety. We're going to focus on the crucial role that public safety brings to the entire recovery effort. A Recovery for All of Us, Queens, and all five boroughs requires a focus on public safety for the people of the city, families all over the five boroughs, small businesses, you name it. This is what helps us come back. We're seeing a lot of progress in the fight against COVID and we're seeing more and more progress on the public safety front. We got a lot to do on both fronts, but we're going to bring them together. That's how our recovery happens. Now, this summer, beginning of the summer there was a lot of concern. We had a lot of challenges. We launched Safe Summer NYC. We said we were going to do fundamental things – get more cops out in the streets, strengthen local efforts to stop violence, Cure Violence, Crisis Management System, the things to stop violence before it happens, investing in kids and communities. Safe Summer NYC really helped us to start to turn the tide. And usually, the summer is a time when we see a huge uptick in violence. We had some tough, tough moments this summer, for sure, but when we compare this summer to last summer we saw some real progress. 28 percent fewer murders, 19 percent fewer shootings, real progress because of the men and women of the NYPD, outstanding work particularly on gun arrest, and tremendous cooperation and connection to the community. Re-bonding with the community, making an impact. Gun arrests, year-to-date – this is such a powerful figure – 23 percent up year-to-date, one of the highest, best years for gun arrests in the history of New York City. We've got a lot of work to do, but it's important to recognize the ways the NYPD continues to improve its approach, continues to make an impact.

The gun arrests are one part of the equation, closing those gun cases are crucial. That number is stunning – 100 percent increase in the closure of gun cases compared to last year. And even compared to 2019, which was the pre-pandemic year when we were doing very well in the fight against crime, closed gun cases are up 27 percent compared to 2019. This is one of the themes we want to talk about today, that we started the summer having to do better than 2020, obviously, but now we're seeing in many parts of the city, the movement, that progress because of the work of the NYPD, is comparable not to 2020 levels, it's comparable to 2019 levels. That shows the tide is turning. It is not everywhere. We've got to do a lot more work, but the fact that there are major parts of New York City, where we're now seeing the crime reality closer to 2019 than 2020 is a very powerful act of progress or example of progress. We want to explain it today. You're going to hear from Chief Harrison in a moment but let me go over just the basics. I want everyone to understand our goal is to get better than 2020, move as much of the city back to the 2019 level, the pre-pandemic level, by the end of this year, build that platform for safety and recovery.

So, using the measure of shootings, crucial, the thing we're looking at so much to address – there are eight NYPD patrol boroughs, which ones are near 2019 levels or moving towards 2019 levels? Five of them. We're going to go over that. Five out of eight are moving to 2019 levels or are at them already. Three patrol boroughs, still, we have major problems in, and that's going to be the focus going forward. But let's talk about where the progress is. Brooklyn South. Brooklyn South has now returned to 2019 levels. Manhattan South, close to 2019 levels. Since we're in Queens, let's talk about Queens North. Queens North has now returned to 2019 levels. Staten Island, under 2019 levels last month. I want to emphasize that. Staten Island, better than what we saw in 2019, as of last month. And the one that has been a really powerful pleasant surprise because of extraordinary hard work, Brooklyn North – and Brooklyn North historically has been one of the places with the biggest challenges, the biggest problems for decades. Brooklyn North now has done a much, much better job over recent months. A lot of innovation, important gang takedowns – lower than 2020 levels,

EXHIBIT 19(D)

deal. This is a place historically would have been considered one of the toughest parts of New York City. It's one of the places where we've seen the greatest progress.

Now, where are we not at all satisfied? We've got a lot more work to do. First and foremost, the Bronx and Chief Harrison will outline, after he talks about how we got this progress done, the forceful efforts that are being made to address the challenges in the Bronx. Manhattan North, still an area of great concern. And here in Queens, Queens South. So, we're seeing a really powerful juxtaposition. Five patrol boroughs where there's been tremendous progress, some even to the point of meeting the levels pre-pandemic. Three where we have to put more and more resources and focus, but we believe we have the tools. Manhattan North and the Bronx, I mentioned, these are both places we're particularly focused on the anti-violence jobs program. We talked about that a week or so ago, that over 1,000 people, primarily young people in that anti-violence jobs program – I want you to hear this – zero have been rearrested. For a lot of people out there, when you hear this, it's going to make a lot of sense to you. Give, particularly a young person, a job, give them a future, help them turn away from crime and violence, it works. In Manhattan North, major expansion in terms of Crisis Management System, Cure Violence, new site in the 3-4 Precinct. All the borough commands, every place where we need personnel, we're keeping Summer All Out going into the fall. So, there'll be additional officers that are going to be deployed.

A couple other key points, something Chief Harrison is doing that is outstanding, a focus on the nexus between 3-1-1 calls and shootings later in that same neighborhood. This is precision policing and COMPStat at its finest, seeing a new correlation and adjusting for it and moving resources accordingly. Focus on drug-related shootings, expanded use of undercovers, focus, of course, on what we talked about a lot lately, dirt bikes, illegal off-road vehicles. All of these pieces are part of an aggressive strategy by the NYPD to keep driving crime down, to keep working to get us to pre-pandemic levels, to expand upon the success in the five patrol boroughs that have seen real progress, and, of course, focus on the three that need a lot more work. A lot is happening to deepen public safety in New York City and speed our recovery. And one of the great architects of this effort, I really want to thank him, he is tireless, and he always finds a new solution. I want to brag on Rodney Harrison. Whenever confronted with a problem, he finds a new solution. And look no farther than those record levels of gun arrests. That was so much of his strategic work to find new approaches. It's making a big, big impact to keep Queens residents and New Yorkers safe. Proud son of Southeast Queens, Chief of Department, Rodney Harrison.

Chief of Department Rodney Harrison, NYPD: Mr. Mayor, thank you so much for those kind words. Before I get started, if you don't mind, I want to share my condolences for the loss of Leonardo Chavez. Leonardo was a police officer for the Transit Bureau. He leaves a family behind and he lost the fight to COVID. So, I just ask for everybody to continue their support and thoughts as well as their prayers for his loved ones.

Mayor, you spoke about some of the numbers, and I want to humbly share some of the numbers with you as well. Since June 13th, shooting incidents were up 634 compared to 386. That's a number of 248 shootings. That's an astonishing number for shooting incidents within New York City. But the great work by the men and women of the NYPD – and I am proud to report, the last 14 weeks we have cut that increase down to 30. We are currently at 1,160 shooting incidents year-to-date compared to 1,130. That's a phenomenal, phenomenal job by the men and women of the NYPD. You know, Commissioner O'Neill uses the phrase all the time, he goes, this does not happen by accident. And he's absolutely right. There was a lot of great work done by Jimmy [inaudible] the Detective Bureau, great work by a lot of the men and women from our public safety officers that are getting guns off the street. And if you just take a look at the Bronx – and I know we're struggling with some of the shooting incidents there, but they were able to get 882 gun arrests year-to-date. That's a spike – or excuse me, not spike but increase of 204, for a 30 percent increase. Unbelievable work being done in Brooklyn. We [inaudible] take a look at Brooklyn as a whole – shooting incidents, we are down 389 versus 491. That is a decrease of 20 percent. Compliments of Judy Harrison, compliments of Mike Kemper. And as much as we see some struggles in Queens South, I look at the borough of Queens as a whole – right now we're even, 173 versus 173. And those numbers are still trending down as well. And we're going to continue to do our strategies in the Bronx, which is to make sure we put enough resources out there to make sure we interdict some of the gang violence that we've seen plague the borough of the Bronx. And that with a combination of our precision policing, strategically going after our most problematic [inaudible] crews, I am very optimistic that we're going to turn the Bronx around.

You know, one of the things that we're looking at, Mr. Mayor, is how we deal with the youth and how do we get them out of these gangs and how do we get them to not be part of some of the violence. And with the leadership of Kevin O'Connor and the YCOs and engaging youth that happened to be part of some of these [inaudible] crews we're

engaging the family and making sure we get them the appropriate resources to help them and help these youth to get out of some of these problematic gangs. I've shared this before regarding our Options Program and how we've had 10,000 youth throughout the city be part of this emotional intelligence virtual reality program that's been put together by youth in New York City. We also have been able, through the Options Program, giving hundreds of youth summer jobs. That's the strategy that's going to work, working with the youth, and making sure that they don't have to partake in some of the gang violence. You take a look at some of the great work we're doing in the Rockaways, Lieutenant Lenora Moody, the Rockaway Colts. It's a football program. It's a mentoring program. It's paying off so many great dividends, working with the Department of Education as well as making sure we mentor as well as also deal with the academics to change some of the youth around in the Rockaways. We are now looking to take that program out to Manhattan. Winston Faison, Inspector Winston Faison from Community Affairs, he has an aviation program at the NYPD community center, teaching youth aeronautics. We're looking to expand another NYPD community center out in the Bronx.

And last but not least, now that schools are open, and we had major success of this back in 2019, getting the NCOs, the neighborhood coordination officers, to go back into the schools, to talk to youth, talk to them about the importance of how to stay out of trouble and making sure they sustain those relationships, I think is going to be a positive way of getting these young men and women out of these situations where they, unfortunately, sometimes too often we're seeing, be resulting in some type of violence. So, the strategy, Mr. Mayor, is dealing with the youth. I like our partnership with our District Attorney's Office. I like our partnership with a lot of the agencies throughout the city, and we'll definitely getting this right throughout the rest of the year, sir. Thank you very much.

Mayor: Thank you so much, Chief. Chief, I really appreciate how hard you're working, how hard the men and women of the NYPD are working. And, again, we're seeing results, more to do, but clear results, proving that we can turn the situation around and turn it around quickly. And it's going to really help our recovery and our recovery is going to help improve public safety. There's still a missing link though. We've talked about this a lot. It is our court system. There has been progress on gun cases. I want to thank everyone in the court system for that, the DAs, the judges, everyone at the Office of Court Administration. That helps. That helps a lot. That shows that more can be done, but what we're not seeing yet is enough progress overall. We still don't see a fully functioning court system and it's hurting us. So, here's what we need the courts to do. Treat all felony cases the way you're treating gun cases right now. Expedite, get the whole process moving. Same for misdemeanors. We cannot have a partial court system. We can't have partial justice. It doesn't work. It gums up everything else. It's affecting public safety, it is affecting the situation on Rikers. We need a fully functioning court system. I want to hear from someone who represents a district in the Bronx that is feeling the effects of not having a fully functioning criminal justice system and understands why we need the courts fully open and what it means for his neighborhood. My pleasure to introduce Council Member Oswald Feliz.

[...]

Mayor: Council Member, that is a lot of common sense right there. I want to thank you. You just laid it out beautifully, clearly. If we don't have our courts fully open, the whole rest of the system doesn't work enough for everybody's safety and for justice. Thank you for putting it so clearly and thank you for being a strong advocate for your community.

Now, speaking of communities, a lot of the best solutions to violence and to crime are at the community level. This is something I give Chief Harrison a lot of credit, for recognizing the powerful impact that community-based solutions to violence can have. And we have been investing more and more each year. In a few minutes, you're going to also hear from Borough President Donovan Richards, who's been a big champion of this, investing in community-based solutions to violence – Cure Violence movement, Crisis Management System. I've got to tell you, we've invested more every year and we've seen more results every year. This has been a New York thing. This has been something New York doubled-down on, the community-based solutions to violence, and we proved a model that works that's now the national model that President Biden is turning to of how we can combine community-based solutions to violence with the great work of our police officers and get to a whole better place.

Tomorrow, I'm really looking forward to joining a wonderful organization, 100 Suits for 100 Men. They'll be opening their new Cure Violence, Crisis Management System headquarters in Laurelton, Queens. And this is about reaching more neighborhoods more deeply, stopping violence before it happens. We know that community-based efforts often are the best way to help young people get on a better track, to stop a conflict that's spinning out of control, to resolve it, to mediate it, to stop the violence. Tonight, I'm going to one of the places that prove that best, in Queensbridge. The Cure

violence, Crisis Management efforts in Queensbridge, and some of the best and strongest in all New York City, in all the country, and they've proven the impact of this movement. Tonight, there's something really special happening. The community's being gathered for a vote on where to put resources that we're helping to provide and the community's going to decide which efforts they want to see more of, which types of youth programs or sports programs, community gardens, whatever they believe is going to help most to bind the community together. This is exactly what we want to see – grassroots involvement, grassroots commitment to changing the trajectory that we've seen before, and it works. And I want you to hear from someone who's been leading the way, really believes in what the community can do to find solutions. She's Executive Director of the City's Office of Neighborhood Safety. My pleasure to introduce Renita Francois.

Executive Director Renita Francois, Mayor's Action Plan for Neighborhood

Safety: Hello. Good morning. Thank you, Mayor de Blasio. So, since 2014, the Mayor's Action Plan for Neighborhood Safety has worked to increase safety in communities disproportionately impacted by violence and the many inequities that affect the quality of life and wellbeing of residents. As part of the office of neighborhood safety, the Crisis Management system works with those who are at risk of doing harm or being harmed by gun violence, while the Mayor's Action Plan for Neighborhood safety works to change the environment around them, investing in effective the coordination of City services, addressing challenges with the physical infrastructure, and building community power to transform their own neighborhoods. Through NeighborhoodStat, we're [inaudible] the voices of those closest to the experience, bringing residents together with City agencies and community-based organizations and building their capacity to make decisions about the resources that come into their communities. Part of that process is giving every-day New Yorkers the power to decide how to spend money that has been invested in their community for public safety.

So, today, during Queens Week – during Queens Week, out at local neighborhood [inaudible] Queensbridge Houses, the resident stakeholder team supported by Jacob Riis Settlement, and the neighborhood safety initiatives team at Center for Court Innovation, along with our office will be leading their neighbors through this process of voting on solutions that range from community-led strategies to reduce gun violence, to enhancing the physical conditions of their development. NeighborhoodStat is a critical step towards the power sharing with community that has to happen in order for us to sustain the safety outcomes that we want to see for our city. And evidence bears that violence can be mitigated by investing in opportunity and building a strong cohesive network of residents who set the tone for their own community norms.

So, by the numbers, and because there's still more work to be done, we know this, but in the map developments – the 15 developments part of this initiative year-to-date, murders are down 15 percent, index crimes are down nine percent, and shootings are down 21 percent. And in Queensbridge, where we will be today – Queensbridge is down to 20 percent in index crimes. There have been no murders this year. And we're down 75 percent in shootings, eight versus two from less – last year to this year at this point. And for context, at this point in 2019, there were five shootings in Queensbridge. So, we are doing better. We are working with residents to build the strength with their communities and we look forward to doing more. So, thank you, Mayor de Blasio for the opportunity.

Mayor: Renita, thank you. I want to ask you something, because I think you hit on something really powerful and I feel there's still so much that the public, the whole public of New York City need to understand about the power of these approaches. You made a point about the community determining what would uplift the community and how that creates a different reality, a different set of expectations – that community empowerment and the direct connection that it makes to safety. Could you just expand on that, that, for example, if people want to do community garden, how that actually has an impact on safety?

Executive Director Francois: Yeah. So, the physical environment especially, residents talk to us a lot about the conditions that they see around their neighborhood. They know if a light is out, if a door is open, if there are activities happening in their communities that they think decreases the wellbeing and the quality of life, they know that better than anyone, they're there 24/7. And so, what we see is that residents tell us, you know, we want to not just create a community garden, but we want to make opportunities for residents that come together, to get to know each other, to weave that social fabric that makes people comfortable enough to say, hey, you know, we observe this, let's get together and try to do something about it. Queensbridge is a very diverse community. One of the focuses of that community is bringing people together that speak different languages, that come from different cultures, so that they can get together to build that sense of community in their neighborhood. And all of these really hands-on things are just ways for them to strengthen their connections to one another. And that connection is the thing that promotes and keeps safety together, that's what's building trust between them and the people who work in the community like the police force, like the community-based organizations, like the other agency partners that serve their community. It's all about the social fabric.

Mayor: That's really beautifully, beautifully explained. And thank you, Renita. I think this point is the wave of the future. And what Renita laid out in terms of the progress made in Queensbridge is striking. I know that it brings a smile to Rodney Harrison's face when we see the community-based solutions making such an impact. But it is about building community. And maybe if I could even say further, what modern society has done to undermine community, rebuilding some of what we used to have in the way of community as the underpinning of safety. This is extraordinarily powerful. Thank you, Renita, to you and all your colleagues and everyone in the Cure Violence movement, the Crisis Management System. It's having a huge impact.

And, as promised, I want to now turn to someone who's been one of the biggest boosters of this effort. He was the Chair of the Public Safety Committee in the City Council and led the way on a host of reforms. And all throughout this week in Queens, we've been focused on how to improve the life of communities and that makes such a connection to how we improve public safety overall. So, here to talk about public safety and the things we've been doing throughout Queens Weeks – Queens Week. Every week is Queens Week to you.

Queens Borough President Donovan Richards: Every day –

Mayor: Every day, there you go. The Borough President of Queens, Donovan Richards,

Borough President Richards: Thank you, Mr. Mayor. And let me start off by saying, it's been a joy to have you in Queens all week. But, more importantly, a joy in you delivering for Queens. A lot of money came home. And before I start, of course, I have to wish my mother, Carole Richards, a happy birthday this morning – love you, mom – have to do that. Love you, thank you for all your support and sacrifice. And this morning, I was out in Southeast Queens, and I was so encouraged, dropping my son off to school today. Today was CEC 29's Take Your Child to School Day for fathers across Community Education Council 29. We had over 100 fathers at my son's school this morning, dropping their kids off. And so, I want to commend them and thank them for their commitment to making our communities better.

And, of course, this has been a real historic week for Queens. And as we talk about safety, and I guess we'll go into that, because we made a historic announcement this week and this is something the community has been calling for, for 40 years – the need for service and opportunity from the Police Department in Southeast Queens. And, of course, we want to thank you for your allocation of millions to create the 116 Precinct, which is one part of the solution. Of course, it's going to have a community center space and some street plaza space, but we know that police are only one part of the solution. The Crisis Management system has been a proven program that has enabled us to ensure that there are community-based led solutions when it comes to producing public safety. And, of course, I want to shout out 100 Suits for 100 Men, Kevin Livingston, who's done some phenomenal work on the ground. But even the work you've done to expand Crisis Management into Woodside, into Astoria, and we heard of the great work – who could have imagined in Queensbridge Houses, we would have zero murders. That is something that – as I go to a Nas concert tonight – in Queens, that is something we can all celebrate here in Queens. We also know that the precinct is not the total solution and we want to thank you for keeping your commitment of building out a brand new state of the art community center as well, a \$92 million commitment from the Mayor to ensure that we're doing preventative work, to keep our young people out of the streets. You can't incarcerate your way out of crime, totally. We have to make sure that there are preventative measures being put in place in that there's opportunity and access just like in every ZIP code. Your socio-economic, or your race, or your geography should not be the sole determinant when – if you have a community center in your community. So, I want to commend you for that, Mr. Mayor.

And fast forward into a lot of the historic investments you've made this week. And I just want to check off the list – Queens Museum, we're going to build out the first children's museum in Queens, \$26 million; the Queens farm, nearly, I believe, \$20 million as well. We're going to build out an education center for our children in Queens as well. The completion of – now, the last phase of Queens Boulevard redesign. I want to thank you for that, because we need this to ensure that safe streets are for everyone. You know, our streets are not just for cars, they are for pedestrians – for people who want, who need to walk – pedestrians. They're for people who want to cycle and we need to make sure that our streets are safe for everyone. And then, yesterday, we had an exciting announcement about a \$13 million allocation from you, Mr. Mayor. And, of course, I have to shout out my brother, Costa Constantinidis, who's now with the Variety Boys and Girls Club, a \$13 million investment in the completion of the Charybdis Playground.

And then, today, I'm excited about what we're going to do in a little while – a \$21 million allocation going into the Gwen Ifill playground and Southeast Queens. And I want to also speak about another center that's going to be built, and I'm working with the Mayor

on this – the reconstruction of the Variety Boys and Girls Club out in Astoria, a community center that serves Western Queens. And that's going to be an exciting announcement that we will make sooner than later. I put about \$5 million in, Mr. Mayor, there. So, I want to thank you for your commitment. And then, yesterday, we also announced close to a little bit north of \$20 million with some more money from the Mayor to now reconstruct the Woodhaven Library in Queens as well.

I'll end in just saying, we have a tropical storm coming and there may be questions on that. Doesn't seem – they reported it's not going to be as bad, but we're working with the Department of Environmental Protection now to make sure catch basins are cleaned up. But I also want to thank you – your office for their continued commitment in helping residents rebuild in post the last storm we had. And sending plumbers in this week has really been great, because a lot of people did not have gas on, because they could not afford a plumber. And the City has really made some concerted efforts to really make sure that we're reaching those local residents. And I just want to plug today also, at Borough Hall, if you are someone still suffering the effects of Ida, or if you're, in general, in need of any resources, we're having a resource for being hosted by the Mayor and co-sponsored by my office from 1 to 5:00 PM at 120-55 Queens Boulevard. Every agency it looks like in the City of New York will be here and commissioner. So, please come on down.

And just the end, Mr. Mayor, I know I won't be with you tomorrow, you'll probably be on the Brian Lehrer show around this time. We had a great time at The Door restaurant this week in Southeast Queens. And today, because of all the bacon you brought home for Queens, we are going to give you some ribs from Queens Bully. And I'm going to thank Rohan. And, of course, we support our small businesses across Queens County, but they are a new hip restaurant right here in Queens with some of the best barbecue in the world. And I'm going to present you with some ribs, because you did ask for a good ribs place and we didn't make it down to the Rib Shack, but I wanted to make sure that Queens Bully was plugged.

So, thank you so much. It's been an honor. We still have a lot of work to do as we – as you alluded to, to ensure that Queens continues to become what the safest borough. Of course, that's my obligation. We want to save city, but my job is to make sure that Queens is. And these investments are really going to go a long way in ensuring that we're not just going back to normal, coming out of this pandemic, because normal was never good enough for the residents of Queens. That's why we were the epicenter of the epicenter of this crisis. It's really about making sure that we're investing in the places we need to and building back better so that we're never back here again. So, thank you, Mr. Mayor. It's been a joy to host you, once again, at Borough Hall, and you're always welcome to come back and bring your checkbook as well.

Mayor: Amen. Okay. Bring the bacon and you get ribs, that's the message I just heard there. And, thank you, Borough President. And yes, we had an amazing time at The Door restaurant, strongly recommend it. Excellent jerk chicken, among many other wonderful things. So, thank you for spending the time together this week and the good work we've been able to do together.

Now, Queens Week, all week, amazing things, but it's also Climate Week. And, obviously, the eyes of the world are on New York City's U.N. General Assembly, and so much of the conversation is about climate. We, all week, have been talking about doing things differently. We started the week talking about a groundbreaking and massive plan, which we are fully funding [inaudible] for hydro power, solar power, wind power to come to New York City. We talked yesterday about making electric vehicles ubiquitous in our City fleet and making electric vehicle charging stations, something you'll see all over New York City, something the City of New York will focus on.

Now, we want to talk about doubling down on wind power. And not just using wind power, but making New York City one of the global capitals of wind power, because where we are is perfectly situated near some of the most promising areas off shore in the entire nation for wind power. And we want New York City to be the center of this new industry. This is a – not just a today plan. This is a long-term plan to build up our capacity. We're putting almost \$200 million into this plan. It will take between 10 to 15 years to fully achieve, but it is worth it. We should be the hub for the wind industry in this nation. We're going to develop world-class infrastructure. We're going to develop the training programs, especially working with CUNY to get New York City residents ready for these jobs of the future, apprenticeships, you name it. The impact on our economy is going to be huge. We predict 13,000 good-paying green jobs just initially. I think is going to grow from there. We're going to focus on getting jobs to some of the communities that have been hardest hit by COVID, by the climate crisis, turning crisis into change and getting those jobs for folks who have been afflicted by the crisis. But here's the underlying power of this initiative, we must change the trajectory on climate. By turning in power for this intensive new initiative, we can reduce 32 million tons of carbon dioxide in our atmosphere – the equivalent of taking a half-million cars off the road. These are big, big things we're talking about all week that changed the reality fundamentally. And we are ready to do bold things in New York City. So, I'm putting in place a plan that will go on for years and years to make us the renewable energy

capital, the wind capital of America. And you might ask yourself, well, how is that plan going to be continued once you leave office? Are you certain there will be the focus and the commitment to turn New York City into a great renewable energy capital? I want to tell you, yes, I am. I am, because I believe in New Yorkers, but I also believe in one New Yorker in particular. And the election's a few weeks away, but I will give you a prediction that the person you're about to hear from will be the next Mayor of New York City. He has been adamant change-agent, someone who sees possibilities that often conventional wisdom doesn't recognize. And he understands the climate crisis is something we have to address head on here in New York City, and I have full confidence he will lead the way. My pleasure to introduce the Borough President of Brooklyn, Eric Adams.

[...]

Thank you so much, Borough President. I know – over the many years we've known each other, what I love is you always see the future and possibilities and the ability of New York to reach these really, really new, powerful places. So, I am happy to hand off this ball to you and I look forward to watching New York City blossom as a renewable energy capital of America. Thank you for your leadership.

Brooklyn Borough President Eric Adams: Thank you.

Mayor: Now, I want you to hear, everyone, from someone who has really been passionate working for this day and has put a lot of work, with her team, into building up the infrastructure that Borough President Adams just talked about so that we can be positioned to play this crucial role in the world. She does a great job leading our city's Economic Development Corporation, but she's also understood that economic development must be synonymous with addressing the climate crisis. President and CEO of EDC, New York City EDC, pleasure to introduce Rachel Loeb.

President Rachel Loeb, Economic Development Corporation: Thank you so much, Mr. Mayor. Good morning. And thank you, Borough President Adams, for joining us as well. I am so delighted to be here to join in this really important announcement. When we talk about a green economy, what we're really talking about is renewable energy and the jobs of the future coming together. And we know that there is no economic health without climate health. So, our vision lays the groundwork, as the Mayor said, to make New York City a hub for the offshore wind development, an industry that is going to bring all levels of jobs for New Yorkers and offer our neighborhoods clean, alternative energy. Currently EDC oversees the development of offshore wind at the South Brooklyn Marine Terminal in Sunset Park, Brooklyn. With this vision plan, we are positioned to expand our efforts. Combined with a federal and state focus and New York City's unique ingredients – our location and our talent – we are poised to lead this industry like no other. We also have the opportunity to build an industry from the ground up with that special New York City secret sauce.

So, what's our plan? As the Mayor mentioned, we're going to invest \$191 million and create 13,000 jobs in an offshore wind ecosystem. Our core strategies are threefold. We're going to develop best-in-class sites and infrastructure. We're going to prepare local businesses and New Yorkers to enter this workforce. And we're going to promote innovation in the offshore wind industry. Supporting MWBEs and other local industries today so that they have the right training and tools to compete in this new industry is important so that they can access the \$70 billion supply chain opportunity. Supporting innovation today so that new technologies and approaches are created here in New York City that we can export to the rest of the world. And we're going to do all this while directing at least 40 percent of the jobs and investments towards women, minorities, and environmental justice communities. And as the Mayor said, this is going to have a real impact for New Yorkers. We're going to also remove 34 million tons of CO2 from the environment.

It's also a unique opportunity for us to increase diversity in the waterfront construction field. So, we're partnering with CUNY Now to begin training New Yorkers today so they can participate as the industry develops. And we're also partnering with capacity building partners, so that minority and women-owned firms are ready to compete on a more level playing field. But we can't do it alone. And so, we have to have industry leaders at the table with us. So, we're going to deepen our strategy and our success [inaudible] advisory council composed of community, business, and nonprofit leaders. So, today I'm also pleased to introduce our co-chairs of this Industry Advisory Council – KC Sahl of VHB Consultants who leads the Northeast Energy Market and is a leading voice in the growth of the offshore wind industry in the United States, and Elizabeth Yeampierre. She's the Executive Director of UPROSE and the national co-chair of the Climate Justice Alliance. And I can personally attest that she has been an incredible partner and champion as we build this vision today. So, I want to thank you, Mr. Mayor, for your support, for this investment, and we are so ready to get to work. Thank you very much.

Mayor: I know you are, Rachel. I appreciate that winning spirit, go out there and change the world. And you just mentioned Elizabeth Yeampierre, who is such an amazing advocate for environmental justice, and someone who has an impact, not just here in New York City, but nationally through her leadership. So, let's hear her talk about how important this development is. Elizabeth, welcome.

[...]

Mayor: *De nada.* Elizabeth, thank you for your leadership. I also – you've given me a new quote I'm going to use, pipelines are bad, vines are good. I like that.

[Laughter]

I learned something new today. Thank you, Elizabeth, for your passionate leadership. And we're very, very glad you're going to be helped leading to – leading the way on this initiative. All right, everyone, we, as New Yorkers, we understand the climate crisis. We felt the climate crisis. We felt that way back with Sandy, the worst natural disaster in our history. And we felt it with two hurricanes in two weeks and unprecedented weather we saw with Hurricane Ida. I said that we are going to do things differently from now on, because we're dealing with a climate crisis. So, we're talking about the storm that's coming later on today. And what we're going to do is over communicate and let people know, even though officially this looks like a limited storm we have learned over and over again that our projections are not always right, and it's better to be safe than sorry. So, the National Weather Service, their forecast is a total of one to one-and-a-half inches of rain for the whole storm event. That, per se, would not be too troubling, except there's a 50 percent potential of one inch of rain in an hour. Now, remember in the case of Hurricane Ida, we had over three inches of rain in an hour, a whole different reality, but even an inch of rain an hour can cause real problems. The National Weather Service does have a Flash Flood Watch in effect.

We have City agencies out – Department of Environmental Protection, Department of Transportation out right now doing preparation work focusing, of course, on areas that are prone to flooding, focusing on certain roads, catch basins. We have a Notify NYC message out, and I want to emphasize that message to all New Yorkers. Please, later on today in the afternoon, the evening, exercise caution when traveling. The real concern here is the roads that are prone to flooding. Again, not a huge rain event based on what we're hearing now, but enough that in certain places you're going to see flooding in roads. We know how dangerous that can be. Listen for the updates, adjust your plans, exercise caution. If you see what looks to be a big concentration of water, don't drive into it. It can be dangerous. We've learned that over and over again. And with basement apartments, again, this is much, much less than we saw with Ida, but we want to be very, very careful after everything that people have been through. If you live in a basement apartment, please keep constantly aware of these updates, please be ready to get to higher ground if this storm is worse than is what is being projected now. So, we're telling people early in the day, and we'll be sending out alerts, get ready to move if this storm picks up and if we see high levels of rain. We want people ready. We're going to constantly communicate based on what we're seeing today.

Okay. Before we go to our indicators, quick update on something we've been talking about all week, the intensive efforts that are being undertaken right now to turn around the situation Rikers Island. I've been having regular conversations with First Deputy Mayor Dean Fuleihan and Commissioner Vinny Schiraldi, and a host of other members of administration. We've been working very closely with the State, numerous conversations with the Governor and her team. We see a real impact already in the time for new people coming into Rikers, the intake time has been greatly reduced. That helps encourage a healthier, safer environment. People are not together as long, that time is going down greatly. The shifts that workers are working are being adjusted. Fewer and fewer workers working those long shifts, thank God. A lot of resources being brought in, a lot of relief being brought in, but yesterday another major development – I said very bluntly that the union, COBA, that represents the Correction officers, had been working, unfortunately, against the interest of officers by discouraging people from showing up to work. We went to court and immediately the union has changed their tune and now has issued a statement formally encouraging officers to show up at work, support their fellow officers, keep the environment safe for everyone. We are seeing a great reduction in absenteeism already. We've been very tough on those who are letting down their fellow officers by not showing up. They are being suspended, but the vast, vast majority are showing up and actually showing up in greater numbers now. So, all of these pieces are moving. We see real improvement, there's major challenges, but on the things that we can have an impact on, we're seeing major improvements. We expect to get a great deal – a large number of inmates out of Rikers in the coming weeks, working with the State. But again, going back to the court system, we are asking the court system to please immediately schedule cases for 500, at least 500 of the inmates who have been in Rikers for a long time. We need the court system to

[Mayor de Blasio speaks in Spanish]

Moderator: Good morning. We will now begin our Q-and-A. As a reminder, we are joined by Chief of Department Rodney Harrison, Queens Borough President Donovan Richards, Dr. Jay Varma, Dr. Mitch Katz, Director of MOCJ Marcos Soler, Department of Corrections, Commissioner Vinnie Schiraldi, and Emergency Management Commissioner John Scrivani. Our first question today goes to Andrea from CBS.

Mayor: Thank you for the question, Andrea. First of all, let's focus on what the judge decided. The judge said that the city's vaccine mandate for educators and staff in our schools is absolutely appropriate. It is legal, it is fair, and we're moving forward with it on Monday. Second, we've had relatively few requests for medical or religious exemption. Again, each of those gets reviewed individually. Some of those will be approved some won't by definition. So, we do not see a noncompliance. In fact, we see very high levels of compliance growing every day, but to the point about being ready to re deploy resources, as we've said, we have thousands and thousands of vaccinated experienced substitute teachers ready to go. That's the obvious first go-to, but it's also true that central staff has thousands of educators, certified educators, who could step into different roles if needed. So, they'll be ready, but the reality we're seeing right now is we think the overwhelming majority of our educators and staff are going to be there on Monday having gotten that first dose and moving forward, go ahead, Andrea.

Mayor: Well, the message for parents is that you're going to have buildings that only have vaccinated adults in them, period. The process is still continuing, and I understand the sense of urgency in your voice, I respect it, but I want to tell you from the position of the work we're doing, we got all the Thursday, all of Friday, all of Saturday, all of Sunday, and people are out there getting vaccinated. I have no question we're going to close the gap intensely and look someone who decides between now and Monday that they don't want to come to work with that to get vaccinated. Well, the consequences are made really clear by the arbitration. In short order, they're not going to be getting a paycheck. I think the vast majority of educators and staff want to serve kids, want to keep getting paid, and the trend lines very, very good. We'll put out—you know, a lot of people follow up and go over to exact protocols with you, but any situation where additional staffing is needed, we have staff that can be deployed very quickly to wherever they're needed in the city.

Moderator: Our next question goes to Dana from the New York Times.

Question: Hey, Mr. Mayor, you know, Eric Adams has committed to moving forward with your wind power initiative, but he's pretty pointedly not committed to moving forward with your Rikers plan to close Rikers and replace it with four borough-based jails. Are you at all concerned about that future, the future of that plan under the Adams administration?

Mayor: I have talked to Borough President Adams about this and, Dana, I know you a long time, I'm sure you're basing what you said on the information you have. The information I have is straight from the horse's mouth and he's told me he is moving forward. So, I think he has concerns about some of the specifics of the community-based jails and that's understandable, and that's still being worked on, the specific work continues there, but I've never heard him disagree with the notion of closing Rikers and moving to alternative sites, and I believe these sites are the ones that are ultimately going to move forward, and there's a lot of support for getting out of Rikers. Go ahead, Dana.

Question: Thank you. On another note, can you speak a bit about this food delivery protection legislation that you have promised to sign? You know, why it's important? And do you yourself use food delivery apps?

Mayor: I do not use food delivery apps. I like to deal with the restaurants, well, I mean, nowadays I don't do a lot of food delivery, but when I'm going back home in a few months, I have real relationship with restaurants in my community when I order out, I just deal with them directly. Which is, I like it better, cut out the intermediary and just support the local restaurant directly. This legislation is important. Delivery workers have gone through so much in this crisis. All working people have and anything we can do to lighten the burden to make their lives a little easier to help them recover, we want to do, I know the City Council feels that strongly. We've been working together on this legislation, and I look forward to supporting it.

Moderator: Our next question goes to Chris from the Daily News.

Question: Hi, Mr. Mayor. Thanks for taking my question.

Mayor: How are you doing, Chris?

Question: Good. How are you doing? I wanted to ask on a Borough President Adams, you said you're excited to hand over the reins to him and have confidence in him as the likely next mayor. The Borough President has not been quite as polite whilst speaking of the state of the city currently. He has called it a dysfunctional city that's been dysfunctional for so many years, it's a city in disorder and the out of control while speaking about crime and relations with the business community. I guess I'm wondering, you agree with that characterization from the Borough President, or do you take issue with that?

Mayor: The Borough President and I, again, we have a relationship that goes back decades, and we see eye to eye on a wide range of issues, and I really think he is the right person for this moment in history to take us to the next level. I haven't seen every quote, but I can tell you, we've talked plenty of times about the fact there's a lot of things we want to see government do better. He and I share that view. We definitely want to see us get back to the kind of public safety we had pre-pandemic. And he was often someone I worked with closely on those neighborhood policing efforts. We share values on that. He was one of the people actually led the way on things like having the community involved in choosing precinct commanders, which is a plan I announced with him, in fact. So, I think there's a lot of common ground. There's problems and like any candidate he's talking about problems that have to be addressed, but I have a lot of confidence in his vision and a lot of confidence that we'll work well together to get things done. Go ahead, Chris.

Question: Thank you. On a different note, on Rikers, I know you found time today tour the One World Observatory with the royals, why can't you find time to tour Riker's Island?

Mayor: It's not about time, Chris. I've been very clear about that. I am focused on making the changes we need to make at Rikers. I described earlier, this is many times a day. The work is being done in different ways, working with members of my team, working with the State, we're getting a lot of results done. That's where my focus is now. I'll be touring it, but I want to get more of these places – these pieces in place first before I go out there.

Moderator: Our next question goes to Elizabeth Kim from Gothamist.

Question: Good morning, Mr. Mayor. Thanks for taking my question.

Mayor: How are you, Elizabeth?

Questions: I'm good. Earlier this week, there was a group of Queens homeowners who were staging a protest in front of Queens Borough Hall. They say that flooding has just been a reoccurring issue for them for not just years but decades, and they want the city to do something more in terms of getting a more expert assessment of what can be done to correct the issue and possibly even consider buying them out. What do you think of that? I mean, the state did that in Staten Island after Sandy because those homes were considered just too vulnerable to flooding. What do you think about something like that?

Mayor: I don't know the specifics, but it's a worthy conversation. So, Elizabeth, we, as part of the task force that we put together, which will be announced in results of on Monday, we're certainly looking at the different parts of the city and what we need to do going forward. I would be careful with any comparison to Sandy, because in Sandy we saw situations where houses were just destroyed outright, literally uninhabitable, and that's a situation where I think it's always legitimate to say, is this an area that still makes sense going forward and work with the community on that? I think we saw something very different with this kind of flooding, but it's still very, very serious. We're going to talk about the different things we can do for different neighborhoods. If homeowners have ideas of how we can help, we want to hear it. But I have not heard before you asked this question any proposal to think about having areas that we think, you know, aren't viable. I haven't heard that before and I wouldn't imagine that to be the case, but we'll certainly assess. Yeah, go ahead, Donovan.

Borough President Richards: And let me just go, because I represented the Rockaways coming out of Sandy and during Sandy, worked for my predecessor in the City Council. And when we did the buyouts out in the Rockaways, one thing that was unique because I did hear the proposal was that we had a lot of public land to move people further inland. This specific neighborhood does not have public land that the city can go on and necessarily build new homes on. The second thing I would say is that DEP, and we did a call with DEP to get updates on all of the infrastructure projects, which actually was pre-planned prior to Ida, we had got about \$2 billion from the Mayor, 55 projects, and the residents of certainly correct that 40 years of disinvestment in neighborhoods like southeast Queens led to a lot of flooding, and Ida was just one part of it. I mean, even on a day like this, where we may not see as much rain, people's basements are underwater. So, there's a large issue around groundwater that has to be dealt with and that's something we're speaking to DEP about as well. But there are 55 projects happening in south Queens as we speak based on the Mayor's commitment of \$2 billion. We just signed off on a \$62 million project in Rosedale for instance, that's going to proceed later this year. These were the neighborhoods that historically flooded. What we saw during Ida was something much different because the neighborhoods further south or the neighborhoods that always are inundated with water, the Rockaways is all always inundated with water, but what we saw was where we saw a direct correlation of where there was investment at and where we finished up storm sewer projects, and we saw no rainwater – we saw no water in those basements that normally get hit hard whether it's a tropical storm or not. So, the big question here is, you know, and they actually on one 83rd Street have an infrastructure project that's just not complete, but there is actually infrastructure going on, a project going on there as we speak. That project will finish up in a few months, but I also would say that where these neighbors live, it's like a valley. They live at the bottom of a hill and DEP is investigating at this moment what are some other things we can do to try to protect these residents? But I don't know if it's possible to raise the road there, but even raising a road, you're never going to have an even road on a hill, at the bottom of a hill. So, we have to look at some unique solutions there, but I will say that the areas where we saw the investment that normally flood, we had no water. So, just wanted to add that in.

Mayor: Amen. Is it, I can't remember, was that Elizabeth's first or second? First? Okay, go ahead, Elizabeth. My apologies, it was a lot, a lot of material got covered there. Good. Go ahead.

Question: My second question is I'd be interested in knowing what you think about Eric Adams, his proposal to convert unused hotels, particularly those in the outer boroughs, into supportive housing. I know the city has its own plan underway already to build more supportive housing and safe havens for the homeless. What do you think about using unused hotels?

Mayor: I think it's a great idea if you can make a deal to get the hotel. I mean, we have, for years and years tried to get our hands on as many buildings as we can for affordable housing, for supportive housing, and some building owners work with us and some don't, but I think as a direction, it's a great idea. And this is, you know, another one of the handoffs. We have a very aggressive supportive housing plan, 15,000

apartments. If we can get that done, it changes the entire reality on the ground so, I like that he's looking under every stone for where he can find the next opportunity.

Moderator: The next question goes to Giovanni from the Staten Island Advance.

Question: Good morning, Mr. Mayor. Thank you for taking my question. How are you today?

Mayor: I'm doing well. How are you?

Question: Pretty good. So, my first question actually addressed when you were talking about deploying, you know, moving substitute teachers if you need to for potential shortages on Monday. But in terms of the religious and medical exemptions, do you have an exact number? The percentage of teachers who have asked for the exemptions?

Mayor: I don't have it in front of me, but I'll make sure the DOE gets you that update. What we saw was the rules were, you know, through the arbitration process, very, very clear about what constituted the types of criteria for those exemptions. And what the consequences are if someone doesn't have an exemption and chooses not to work. So, I think what's different in these last few days compared to weeks ago is the ground rules were 100 percent set through an arbitration process that involved the city and the union. I have been struck at how few people have applied for those exemptions. We'll get you the final numbers. And the process of determining who gets them and who doesn't is playing out over these next few days. But again, we saw, you know, even yesterday, I think as we were talking through the vaccination numbers. You see they're jumping up intensely among educators and staff. I think the truth is a hell of a lot of people are getting ready for Monday. They hadn't gotten vaccinated yet. They're planning to do it the next few days. Go ahead.

Question: Could you maybe go into some of that criteria so I know like with religious exemptions, for example, there have been leaders such as the Pope that have said it's okay you know, to get -- for Catholics to get the vaccine. So, are there any religious exemptions that you know of?

Mayor: Yeah, it's a great question. Thank you. Yes. And very powerfully Pope Francis has been abundantly clear that there's nothing in scripture that suggests people shouldn't get vaccinated. Obviously, so many people of all faiths have been getting vaccinated for years and decades. There are, I believe it's two well-established religions, Christian Science and Jehovah's Witnesses that have a history on this, of a religious opposition. But overwhelmingly the faiths all around the world have been supportive of vaccination. So, we are saying very clearly, it's not something someone can make up individually. It has to be, you're a standing member of a faith that has a very, very specific long-standing objection. Go ahead.

Moderator: The next question goes to Katie Honan from The City.

Question: Hey, good morning, Mayor de Blasio. How are you?

Mayor: Good, Katie. How you been?

Question: I'm good. I wanted to ask, you know, you mentioned the storm today and the particular vulnerabilities for people in basement apartments. And I know you noted that perhaps they should, if there's flooding, they should leave. Is there a mechanism for people to go somewhere? Like, is there a place for them to go? And then additionally, I know you had planned to do door-to-door outreach of people and based on apartments. What's the latest on that? And what's the update?

Mayor: So, great question. Thank you. Because we have right now a very limited projection, it's not to the point yet of opening up shelters or doing an evacuation effort. We are now working out of a sort of super abundance of caution. What we're seeing now, the exact numbers I went over normally would not have caused particular alarm. It is the fact that storms are moving quickly. That's allowing me now to say to people and putting everyone on alert, if you live in a basement apartment, be ready to move to higher ground. That might be for a very limited period of time. And hopefully it never turns into anything bad enough for that to actually be necessary. But we want to start by telling people that if we see the situation worsen we'll put out more and more urgent alerts. We'll potentially put out a cell phone alert to all cell phones. If we ever got in this or any other storm, a situation where we believed evacuation was necessary, that would be a whole higher level of activity. And then of course we'd be opening up shelters as well. But this one is mainly to get people to be careful when you're driving. Don't drive into large quantities of water, try and avoid the places you know that traditionally flood. And if you live in a basement apartment

Question: [Inaudible].

Mayor: And if you live in a basement apartment be mindful, if you start to see water accumulate, get out, out of abundance of caution. And we'll keep people updated. Go ahead, Katie.

Question: Thanks. So, what is that? I know you had mentioned earlier this month, you were planning to do door-to-door outreach. Has that begun? What does that look like? And yeah, walk us through that because I know there could be some hesitancy from people living in basement apartments, even if they are technically legal, because they don't have anywhere else to go.

Mayor: The effort, which will be outlined, at least the initial effort will be outlined Monday when we go over the task force report. We want to use community-based organizations, go door-to-door to educate people. We are going to use first responders, obviously in a situation for evacuation. We're laying out that plan. We can do some of that immediately if we ever have to, other pieces will get – have to be developed over the next few months to really be as good as they need to be. But this is not that situation yet. This is simply alerting people on an individual level to be aware, to be ready to change if they have to change something they're doing today. We are not yet in the point of going door-to-door or sending out first responders. And this does not appear to be a storm where that will be necessary. If anything changes in the coming hours, then we would activate that plan and alert people. The other thing to say is we are expecting really high winds. So, for anyone, homeowners or renters, if you have stuff outside that might blow away or create a hazard, please secure it or bring it inside. This is a good time to do that because we're going to see the storm later on in the afternoon.

Moderator: We have time for two more questions today. The next question goes to Ari Feldman from The Forward.

Question: Hey, good morning, Mr. Mayor. How are you doing?

Mayor: I'm doing good, Ari. How are you?

Question: Doing well. And just for the record, NY1. But I did use to be with The Forward.

Mayor: We're getting your whole biography here Ari.

Question: Exactly. I'll tell you where I went to college next. I had a question about Rikers Island and the 6A powers. My understanding is that under your 6A powers, you're able to immediately release 180 people. I think it's become very clear, in recent days and certainly over many years, that being in Rikers presents a clear risk to life. And Isaabdul Karim was on this 6A list, could have been released under the 6A rules. And since we brought up The Forward, I'll mention that there's a Jewish proverb that says, you know, if a person saves one life, it's as if they've saved the entire world. So, I'm curious why not just release the 180 people who you're able to release? You said it's a small amount of people, but wouldn't you agree that any number of people who you can reduce the threat of their death to them, would be a significant thing to them?

Mayor: There's no question, Ari. I was – I've always been very moved by that idea that comes out of Jewish thought. And that animated a lot of what we did last year, where we did a large number of releases for humanitarian reasons. The difference here is we have, first of all, many bigger things that we're trying to do that are a result in a lot more people coming out of Rikers. And second, that 6A list, that's not the number I'm hearing it all, honestly. I'm hearing a much smaller number when you bring it down to the folks that we would feel comfortable releasing on a public safety level. So, there is more than one consideration here that we have to balance. I'm certainly going to look at anyone who we feel we can release. And I'm going to work with the State, the NYPD, DAs, our own Office of Criminal Justice. Anyone we think we can release who does not pose a safety threat, we're always going to look at that. But that's not the number I'm hearing at all. I'm hearing a much smaller number. Go ahead, Ari.

Question: Thank you. And turning to the storm. You know, your discernment into climate, your announcements this week around climate week have really been focused on energy. The new transmission lines, the \$75 million for supporting electric vehicle infrastructure. And then the \$200 million to I guess jump start the wind energy in New York City, which of course are all great long-term projects for sustainability in the city. But there is flash flood risk tonight in Queens and across the city. And federal funding and the infrastructure bill and budget reconciliation really seems kind of up in the air at

this point? Does not seem like a guarantee. Why put \$200 million towards a 10 to 15-year wind program? Why not put \$200 million towards immediately constructing green infrastructure, expanding gray infrastructure like sewers to immediately decrease flood risks in the most flood prone places, especially in a borough like Queens?

Mayor: Well, I want to give you a little level set. And I appreciate the question. It's a very fair question. But as the Borough President just said, we put \$2 billion into Southeast Queens alone to rework the entire sewer system. The scale of the problem with potential flooding is many tens of billions, which is not to say don't do it. It means to say, we can do some things with our own resources, but to really get to a systemic solution we need the federal resources. The difference though, is we have an opportunity right now to secure our position as a renewable energy capital, which both will help speed the development of renewable energy and get at the root cause of all of this, whether to begin with, with climate change. And obviously that has huge ramifications for creating green jobs. So, I think it's exactly the right investment to make. We will continue to make the investments in infrastructure. But the scale is far beyond what the City could do on its own. I think that's the reality and we – I'm hoping and praying that something comes out of Washington that really changes the reality for us.

Moderator: Our last question for today goes to Henry from Bloomberg.

Question: Hello, Mr. Mayor. How are you doing today?

Mayor: Good, Henry. How you doing?

Question: I'm good. You can actually hear me.

Mayor: Yes. You sound loud and clear.

Question: Technological marvel.

Mayor: It's working brother. It's working.

Question: Great. Let me ask you, you know, you say that the City is going to be doing everything differently with regards to rain. But with this storm, it doesn't sound like you're doing anything differently? Am I correct about that?

Mayor: No. Respectfully. When, if you said to me historically, we're going to get an inch of rain. I'll give you again the exact numbers, so that you're hearing exactly what I went over. We're all starting from the same point. Here is what the Weather Service is telling us. One to one and a quarter inches of rain total for the entire event, with a 50 percent potential for one inch of rain in an hour. Historically, we would have said, that's something that, you know, our sewer system could handle. It's built for that kind of capacity. Flash forward, excuse me, flash flood watch is a lower status. It would not have caused a lot of immediate changes or actions. Now, what we're saying is in addition to sending out the teams and crews to do all they can to prepare, the public communication is entirely different. We're telling people to expect the very worst now. There is no such thing as business as usual anymore. We're telling people in basements to get ready to get out of your basement on short notice. That's something that would not have been an issue in the past before Ida. We are telling people to get ready to avoid the places where there might be flooding, which again, on one inch of rain or inch and a quarter rain, I would not have imagined it would be a big issue. The difference now, Henry is we have to assume much worse and much quicker. So, we're putting people on alert to be vigilant all day. And if things change, we're going to put out a whole different level of alert and activate a lot more personnel. It's getting people into the mindset that even what appears to be a smaller event could turn into a bigger event quickly. Go ahead, Henry.

Question: Okay. Thank you for that. Is the Borough President still there?

Mayor: Yes he is.

Question: I just wanted to – Okay. Very good. Hello there, Borough President Richards, let me ask you this. What is your position on the BQX? Is that an idea that you would like to see in the future of Queens?

Borough President Richards: I would say I'm more interested in this federal bill passing. And you know, if there's a lot of money left in the city, it's something we definitely can explore. But I would say, you know, my immediate priority is investments in the rapid bus service, SBS. I would say we need to see the Atlantic Ticket, Freedom Ticket go into a place that the MTA has, which is a discounted ticket. I would love to see

perhaps a compromise on the Rockaway Beach line. Those are the immediate things that I would like to see happen.

Mayor: You're well prepared. I'm impressed.

Borough President Richards: Thank you.

Mayor: I want to give you a shout out here as we get ready to end Queens Week tomorrow. Everybody want to bring it all together here in saying, you know, we've covered a lot of ground today, but it is all about our recovery. It's all about bringing New York City back. What's been really impressive in Queens Week is the spirit, the energy of Queens. I'm going to say goodbye to Mr. Met here. And remind everyone that the single largest vaccination site the City sponsored anywhere in New York City, Citi Field, thank you to the Mets. But look, Queens has been really leading the way in our recovery, highest level of vaccination in any part of the city. That's a challenge to the other four boroughs, get with it. Come on, try and keep up with Queens.

Borough President Richards: Let's go.

Mayor: And this is how we move forward. So, we've got a lot more we're going to be doing today and tomorrow. It's been a great week, Mr. Borough President. I thank you.

Borough President Richards: Thank you.

Mayor: And everybody, let's keep moving forward. Thanks a lot.

Borough President Richards: Thank you.

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EXHIBIT #19

ORDER OF THE COMMISSIONER OF HEALTH AND MENTAL HYGIENE REQUIRING COVID-19 VACCINATION FOR INDIVIDUALS WORKING IN CERTAIN CHILD CARE PROGRAMS

WHEREAS, on March 12, 2020, Mayor Bill de Blasio issued Emergency Executive Order No. 98 declaring a state of emergency in the City to address the threat posed by COVID-19 to the health and welfare of City residents, and such order remains in effect; and

WHEREAS, on March 25, 2020, the Commissioner of Health and Mental Hygiene declared the existence of a public health emergency within the City to address the continuing threat posed by COVID-19 to the health and welfare of City residents, and such declaration and public health emergency continue to be in effect; and

WHEREAS, pursuant to Section 558 of the New York City Charter (the “Charter”), the Board of Health may embrace in the Health Code all matters and subjects to which the power and authority of the Department of Health and Mental Hygiene (the “Department”) extends; and

WHEREAS, pursuant to Section 556 of the Charter and Section 3.01(c) of the Health Code, the Department is authorized to supervise the control of communicable diseases and conditions hazardous to life and health and take such actions as may be necessary to assure the maintenance of the protection of public health; and

WHEREAS, the U.S. Centers for Disease Control and Prevention (“CDC”) reports that new variants of COVID-19, identified as “variants of concern” have emerged in the United States, and some of these new variants which currently account for the majority of COVID-19 cases sequenced in New York City, are more transmissible than earlier variants; and

WHEREAS, the CDC has stated that vaccination is an effective tool to prevent the spread of COVID-19 and benefits both vaccine recipients and those they come into contact with, including persons who for reasons of age, health, or other conditions cannot themselves be vaccinated; and

WHEREAS, the CDC has recommended that school teachers and staff be “vaccinated as soon as possible” because vaccination is “the most critical strategy to help schools safely resume full operations [and] is the leading public health prevention strategy to end the COVID-19 pandemic;” and

WHEREAS, on September 9, 2021, President Joseph Biden announced that staff who work in Head Start programs and in schools run by the Bureau of Indian Affairs and Department of Defense will be required to be vaccinated in order to implement the CDC’s recommendations; and

WHEREAS, on August 26, 2021, New York State Department of Health adopted emergency regulations requiring staff of inpatient hospitals and nursing homes to receive the first dose of a vaccine by September 27, 2021, and staff of diagnostic and treatment centers, hospices, home care and adult care facilities to receive the first dose of a vaccine by October 7, 2021; and

WHEREAS, Section 17-104 of the Administrative Code of the City of New York directs the Department to adopt prompt and effective measures to prevent the communication of infectious diseases such as COVID-19, and in accordance with Section 17-109(b), the Department may adopt vaccination measures to effectively prevent the spread of communicable diseases; and

WHEREAS, the City is committed to safe, in-person learning in all schools, following strong public health science; and

WHEREAS, the CDC notes that early childhood programs such as child care centers, school-based child care, and home-based child care, as well as afterschool programs and other child care programs, serve children under the age of 12 who are not eligible for vaccination at this time, making implementation of layered prevention strategies in such programs critical to protecting children; and

WHEREAS, child care programs serve hundreds of thousands of children and families across the City, including those in communities that have been disproportionately affected by the COVID-19 pandemic; and

WHEREAS, the City Department of Education (“DOE”) and Department of Youth and Community Development (“DYCD”) contract with community-based providers for early care and education programs, Universal Pre-Kindergarten, Early Learn, Head Start, family and group family day care, pre-school special education services, and afterschool, Beacon, and Cornerstone programs; and

WHEREAS, a system of vaccination for individuals working in child care centers, school-based child care, and home-based child care, as well as afterschool programs and other child care programs, will potentially save lives, protect public health, and promote public safety; and

WHEREAS, pursuant to Section 3.01(d) of the Health Code, I am authorized to issue orders and take actions that I deem necessary for the health and safety of the City and its residents when urgent public health action is necessary to protect the public health against an existing threat and a public health emergency has been declared pursuant to such section; and

WHEREAS, on August 24, 2021 I issued, and on September 11, 2021 I updated, an Order requiring COVID-19 vaccination for DOE employees, contractors, visitors, and others who work in-person at or visit a DOE school setting or DOE building;

NOW THEREFORE I, Dave A. Chokshi, MD, MSc, Commissioner of Health and Mental Hygiene, finding that a public health emergency within New York City continues, and that it is necessary for the health and safety of the City and its residents, do hereby exercise the power of the Board of Health to prevent, mitigate, control and abate the current emergency, and hereby order that:

1. No later than September 27, 2021, every covered child care program must exclude from the premises any staff person who has not provided proof of vaccination against COVID-19, as defined in this Order.

2. All staff persons newly hired on or after the effective date of this order by a covered child care program must provide proof of vaccination against COVID-19 to their employer on or before their start date.
3. Each covered child care program must securely maintain records of staff persons' proof of vaccination against COVID-19. Records may be kept electronically or on paper and must be made available to the Department immediately upon request. Records must include the following information:
 - a. Each staff person's name and start date at the covered child care program.
 - b. The type of proof of vaccination submitted; the date such proof was collected by the covered child care program; the brand of vaccine administered; and whether the person is fully vaccinated, as defined in this Order.
 - c. For any staff person who submits proof of the first dose of a two-dose vaccine, the date by which proof of the second dose must be provided, which must be no later than 45 days after the first dose.

4. For the purposes of this Order:

"Covered child care program" means early childhood programs or services provided under contract with DOE for Birth-to-5 and Head Start services for infants, toddlers, and preschoolers including 3-k and pre-k services as well as early education programs serving young children with disabilities, Early Learn, pre-school special education pursuant to section 4410 of the Education Law, or by family home-based family child care providers contracted through family child care networks, or programs under contract with DYCD for after school, Beacon, and Cornerstone.

"Fully vaccinated" means at least two weeks have passed after an individual received a single-dose of a vaccine that requires only one dose or the second dose in a two-dose series of a COVID-19 vaccine authorized or approved for use by the U.S. Food and Drug Administration or authorized for emergency use by the World Health Organization.

"Premises" means locations where children are regularly present at covered child care programs.

"Proof of vaccination against COVID-19" means one of the following documents demonstrating that an individual has either (a) been fully vaccinated against COVID-19; (b) received one dose of a single-dose COVID-19 vaccine; or (c) received the first dose of a two-dose COVID-19 vaccine, provided that a staff person providing proof of only such first dose provides proof of receiving the second dose of that vaccine within 45 days after receiving the first dose:

- i. A CDC COVID-19 Vaccination Record Card or other official immunization record from the jurisdiction, city, state, or country where the vaccine was administered that provides the person's name, vaccine brand, and date

administered. Such card or record may be shown in original paper copy or by digital or physical photo of such a card or record, including a photo shown on the New York City COVID Safe Pass; or

- ii. A New York State Excelsior Pass populated as required with valid identification and vaccination proof.

“Staff person of a child care program” means an employee, contractor, volunteer or intern of the covered child care program who works in-person on the premises; a graduate, undergraduate or high school student placed by their educational institution at the covered child care program as part of an academic program and who works in-person on the premises; a specialist providing support services, therapy, special education or other services at the covered child care program to an individual child pursuant to a mandate for the child and who works in-person on the premises; or a person employed by a contractor of the covered child care program, including independent contractors, who works in-person on the premises. “Staff person” does not include a person who is onsite briefly for a limited purpose, such as to make a delivery or pick-up or perform a repair.

5. This Order shall be effective immediately and remain in effect until rescinded, subject to the authority of the Board of Health to continue, rescind, alter, or modify this Order pursuant to Section 3.01(d) of the Health Code.

Dated: September 12, 2021



Dave A. Chokshi, M.D., MSc
Commissioner

EXHIBIT #20

**ORDER OF THE COMMISSIONER OF HEALTH AND MENTAL HYGIENE
REVISING THE EFFECTIVE DATE FOR REQUIRED COVID-19
VACCINATION OF DEPARTMENT OF EDUCATION
EMPLOYEES, CONTRACTORS, VISITORS AND OTHERS**

WHEREAS, on March 25, 2020, the New York City Commissioner of Health and Mental Hygiene declared the existence of a public health emergency within the City to address the continuing threat posed by COVID-19 to the health and welfare of City residents, and such declaration and public health emergency continue to be in effect; and

WHEREAS, pursuant to Section 3.01(d) of the Health Code, I am authorized to issue orders and take actions that I deem necessary for the health and safety of the City and its residents when urgent public health action is necessary to protect the public health against an existing threat and a public health emergency has been declared pursuant to such section; and

WHEREAS, on September 15, 2021, I issued, and on September 17, 2021, the Board of Health ratified, an Order requiring proof of COVID-19 vaccination for New York City Department of Education (“DOE”) employees, contractors, visitors, and others; and

WHEREAS, under such Order, DOE staff, charter school staff, and individuals who work in-person in a DOE school setting or DOE building were required to provide proof of vaccination no later than September 27, 2021; and

WHEREAS, on September 24, 2021, the United States Court of Appeals for the Second Circuit entered a temporary injunction of said Order, and then on September 27, 2021, the same Court dissolved such injunction;

NOW THEREFORE I, Dave A. Chokshi, MD, MSc, Commissioner of Health and Mental Hygiene, finding that a public health emergency within New York City continues, and that it is necessary for the health and safety of the City and its residents, do hereby exercise the power of the Board of Health to prevent, mitigate, control and abate the current emergency, to

AMEND my September 15, 2021 Order requiring COVID-19 vaccination for DOE employees, contractors, visitors and others, as ratified by the Board of Health on September 17, 2021, to:

1. Require that any proof of vaccination previously required to be provided by September 27, 2021, or before beginning employment, now be provided no later than Friday, October 1, 2021, or before beginning employment; and
2. Require that beginning Monday, October 4, 2021, any visitor to a DOE school building show proof of receipt of at least one dose of a COVID-19 vaccine, as described in such Order.

Dated: September 28, 2021



Dave A. Chokshi, M.D., MSc
Commissioner

EXHIBIT #21

ORDER OF THE COMMISSIONER OF HEALTH AND MENTAL HYGIENE TO REQUIRE COVID-19 VACCINATION FOR CITY EMPLOYEES AND CERTAIN CITY CONTRACTORS

WHEREAS, on March 12, 2020, Mayor Bill de Blasio issued Emergency Executive Order No. 98 declaring a state of emergency in the City to address the threat posed by COVID-19 to the health and welfare of City residents, and such order remains in effect; and

WHEREAS, on March 25, 2020, the New York City Commissioner of Health and Mental Hygiene declared the existence of a public health emergency within the City to address the continuing threat posed by COVID-19 to the health and welfare of City residents, and such declaration and public health emergency continue to be in effect; and

WHEREAS, pursuant to Section 558 of the New York City Charter (the “Charter”), the Board of Health may embrace in the Health Code all matters and subjects to which the power and authority of the Department of Health and Mental Hygiene (the “Department”) extends; and

WHEREAS, pursuant to Section 556 of the Charter and Section 3.01(c) of the Health Code, the Department is authorized to supervise the control of communicable diseases and conditions hazardous to life and health and take such actions as may be necessary to assure the maintenance of the protection of public health; and

WHEREAS, the U.S. Centers for Disease Control and Prevention (“CDC”) reports that new variants of COVID-19, identified as “variants of concern” have emerged in the United States, and some of these new variants which currently account for the majority of COVID-19 cases sequenced in New York City, are more transmissible than earlier variants; and

WHEREAS, the CDC has stated that vaccination is an effective tool to prevent the spread of COVID-19 and the development of new variants, and benefits both vaccine recipients and those they come into contact with, including persons who for reasons of age, health, or other conditions cannot themselves be vaccinated; and

WHEREAS, the Department reports that between January 17 and August 7, 2021, people who were unvaccinated or not fully vaccinated accounted for 96.1% of COVID-19 cases, 96.9% of COVID-19 hospitalizations, and 97.3% of COVID-19 deaths in New York City; and

WHEREAS, a study by Yale University demonstrated that the Department’s vaccination campaign was estimated to have prevented about 250,000 COVID-19 cases, 44,000 hospitalizations, and 8,300 deaths from COVID-19 infection since the start of vaccination through July 1, 2021, and by information and belief, the number of prevented cases, hospitalizations, and death has risen since then; and

WHEREAS, on August 16, 2021, Mayor de Blasio issued Emergency Executive Order No. 225, the “Key to NYC,” requiring that patrons and employees of establishments providing indoor entertainment, dining, and gyms and fitness centers must show proof that they have received at least one dose of an approved COVID-19 vaccine, and such Order, as amended, is still in effect; and

WHEREAS, on August 24, 2021, I issued an Order requiring that Department of Education employees, contractors, and visitors provide proof of COVID-19 vaccination before entering a DOE building or school setting, and such Order was re-issued on September 12 and

15, 2021, and subsequently amended on September 28, 2021, and such Orders and amendment were ratified by the New York City Board of Health on September 17, 2021 and October 18, 2021; and

WHEREAS, on August 26, 2021, the New York State Department of Health adopted emergency regulations requiring staff of inpatient hospitals and nursing homes to receive the first dose of a COVID-19 vaccine by September 27, 2021, and staff of diagnostic and treatment centers, hospices, home care and adult care facilities to receive the first dose of a COVID-19 vaccine by October 7, 2021; and

WHEREAS, on August 31, 2021, Mayor de Blasio issued Executive Order No. 78, requiring that, beginning September 13, 2021, City employees and covered employees of City contractors be vaccinated against COVID-19 or submit on a weekly basis proof of a negative COVID-19 PCR diagnostic test; and

WHEREAS, on September 9, 2021 President Biden issued an Executive Order stating that “It is essential that Federal employees take all available steps to protect themselves and avoid spreading COVID-19 to their co-workers and members of the public,” and ordering each federal agency to “implement, to the extent consistent with applicable law, a program to require COVID-19 vaccination for all of its Federal employees, with exceptions only as required by law”; and

WHEREAS, on September 12, 2021, I issued an Order requiring that staff of early childhood programs or services provided under contract with the Department of Education or the Department of Youth and Community Development provide proof of COVID-19 vaccination; and

WHEREAS, Section 17-104 of the Administrative Code of the City of New York directs the Department to adopt prompt and effective measures to prevent the communication of infectious diseases such as COVID-19, and in accordance with Section 17-109(b), the Department may adopt vaccination measures to effectively prevent the spread of communicable diseases; and

WHEREAS, City employees and City contractors provide services to all New Yorkers that are critical to the health, safety, and well-being of City residents, and the City should take reasonable measures to reduce the transmission of COVID-19 when providing such services; and

WHEREAS, a system of vaccination for individuals providing City services and working in City offices will potentially save lives, protect public health, and promote public safety; and

WHEREAS, there is a staff shortage at Department of Corrections (“DOC”) facilities, and in consideration of potential effects on the health and safety of inmates in such facilities, and of the benefit to public health and employee health of a fully vaccinated correctional staff, it is necessary that the requirements of this Order for DOC uniformed personnel not assigned to posts in healthcare settings be delayed; and

WHEREAS, pursuant to Section 3.01(d) of the Health Code, I am authorized to issue orders and take actions that I deem necessary for the health and safety of the City and its residents when urgent public health action is necessary to protect the public health against an existing threat and a public health emergency has been declared pursuant to such Section;

NOW THEREFORE I, Dave A. Chokshi, MD, MSc, Commissioner of Health and Mental Hygiene, finding that a public health emergency within New York City continues, and that it is

necessary for the health and safety of the City and its residents, do hereby exercise the power of the Board of Health to prevent, mitigate, control and abate the current emergency, and order that:

1. My Order of August 10, 2021, relating to a vaccination or testing requirement for staff in City operated or contracted residential and congregate settings, shall be **RESCINDED** as of November 1, 2021. Such staff are subject to the requirements of this Order.
2. No later than 5pm on October 29, 2021, all City employees, except those employees described in Paragraph 5, must provide proof to the agency or office where they work that:
 - a. they have been fully vaccinated against COVID-19; or
 - b. they have received a single-dose COVID-19 vaccine, even if two weeks have not passed since they received the vaccine; or
 - c. they have received the first dose of a two-dose COVID-19 vaccine

Any employee who received only the first dose of a two-dose vaccine at the time they provided the proof described in this Paragraph shall, within 45 days after receipt of the first dose, provide proof that they have received the second dose of vaccine.

3. Any City employee who has not provided the proof described in Paragraph 2 must be excluded from the premises at which they work beginning on November 1, 2021.
4. No later than 5pm on October 29, 2021, City agencies that contract for human services contracts must take all necessary actions to require that those human services contractors require their covered employees to provide proof that:
 - a. they have been fully vaccinated against COVID-19; or
 - b. they have received a single-dose COVID-19 vaccine, even if two weeks have not passed since they received the vaccine; or
 - c. they have received the first dose of a two-dose COVID-19 vaccine.

Any covered employee of a human service contractor who received only the first dose of a two-dose vaccine at the time they provided the proof described in this Paragraph shall, within 45 days after receipt of the first dose, provide proof that they have received the second dose of vaccine.

All such contractors shall submit a certification to their contracting agency confirming that they are requiring their covered employees to provide such proof. If contractors are non-compliant, the contracting City agencies may exercise any rights they may have under their contract.

5. Notwithstanding Paragraphs 3 and 4 of this Order, until November 30, 2021, the provisions of this Order shall not apply to uniformed Department of Corrections (“DOC”) employees, including staff serving in Warden and Chief titles, unless such uniformed employee is assigned for any time to any of the following locations: Bellevue Hospital; Elmhurst Hospital; the DOC

infirmary in North Infirmary Command; the DOC West Facility; or any clinic staffed by Correctional Health Services.

Uniformed employees not assigned to such locations, to whom this Order does not apply until November 30, 2021, must, until such date, either:

- a. Provide DOC with proof that:
 - i. they have been fully vaccinated against COVID-19; or
 - ii. they have received a single-dose COVID-19 vaccine, even if two weeks have not passed since they received the vaccine; or
 - iii. they have received the first dose of a two-dose COVID-19 vaccine, provided that they must additionally provide proof that they have received the second dose of vaccine within 45 days after receipt of the first dose; or
- b. On a weekly basis until the employee submits the proof described in this Paragraph, provide DOC with proof of a negative COVID-19 PCR diagnostic test (not an antibody test).

6. For the purposes of this Order:

“City employee” means a full- or part-time employee, intern, or volunteer of a New York City agency.

“Contract” means a contract awarded by the City, and any subcontract under such a contract, for work: (i) to be performed within the City of New York; and (ii) where employees can be expected to physically interact with City employees or members of the public in the course of performing work under the contract.

“Contractor” means a person or entity that has a City contract, including a subcontract as described in the definition of “contract.”

“Covered employee” means a person: (i) employed by a contractor or subcontractor holding a contract; (ii) whose salary is paid in whole or in part from funds provided under a City contract; and (iii) who performs any part of the work under the contract within the City of New York. However, a person whose work under the contract does not include physical interaction with City employees or members of the public shall not be deemed to be a covered employee.

“Fully vaccinated” means at least two weeks have passed after an individual received a single dose of a COVID-19 vaccine that only requires one dose, or the second dose of a two-dose series of a COVID-19 vaccine as approved or authorized for use by the Food and Drug Administration or World Health Organization.

“Human services contract” means social services contracted by an agency on behalf of third-party clients including but not limited to day care, foster care, home care, health or medical services, housing and shelter assistance, preventive services, youth services, the operation of

senior centers, employment training and assistance, vocational and educational programs, legal services and recreation programs.

7. Each City agency shall send each of its human services contractors notice that covered employees of such contractors must comply with the requirement of Paragraph 4 of this Order and request a response from each such contractor, as soon as possible, with regard to the contractor's intent to follow this Order.
8. Nothing in this Order shall be construed to prohibit any reasonable accommodation otherwise required by law.
9. This Order shall not apply to individuals who already are subject to another Order of the Commissioner of Health and Mental Hygiene, Board of Health, the Mayor, or a State or federal entity that requires them to provide proof of full vaccination and have been granted a reasonable accommodation to such requirement.
10. This Order shall not apply to per diem poll workers hired by the New York City Board of Elections to conduct the election scheduled for November 2, 2021.
11. Subject to the authority of the Board of Health to continue, rescind, alter or modify this Order pursuant to Section 3.01(d) of the Health Code, this Order shall be effective immediately and remain in effect until rescinded, except that Paragraph 5 of this Order will be deemed repealed on December 1, 2021.

Dated: October 20, 2021



Dave A. Chokshi, M.D., MSc
Commissioner

EXHIBIT #22

**ORDER OF THE COMMISSIONER
OF HEALTH AND MENTAL HYGIENE
TO REQUIRE COVID-19 VACCINATION IN THE WORKPLACE**

WHEREAS, on March 12, 2020, Mayor Bill de Blasio issued Emergency Executive Order No. 98 declaring a state of emergency in the City to address the threat posed by COVID-19 to the health and welfare of City residents, and such Order remains in effect; and

WHEREAS, on March 25, 2020, the New York City Commissioner of Health and Mental Hygiene declared the existence of a public health emergency within the City to address the continuing threat posed by COVID-19 to the health and welfare of City residents, and such declaration and public health emergency continue to be in effect; and

WHEREAS, the COVID-19 virus continues to spread and mutate, and on November 26, 2021, the World Health Organization (“WHO”) declared a new variant of COVID-19, named Omicron, a variant of concern and preliminary evidence suggests an increased risk of reinfection and spread across the world, including to the United States; and

WHEREAS, on November 26, 2021, New York State Governor Kathy Hochul issued Executive Order No. 11 to address new emerging threats across the State posed by COVID-19, finding that New York is experiencing COVID-19 transmission at rates the State has not seen since April 2020 and that the rate of new COVID-19 hospital admissions has been increasing over the past month to over 300 new admissions a day; and

WHEREAS, COVID-19 spreads when an infected person exhales the virus and these are breathed in by other people or land on their eyes, noses, or mouth, with people closer than 6 feet from the infected person most likely to get infected, making the risk of COVID-19 transmission greater in workplace settings because of close proximity to others and the sharing of office space and facilities such as restrooms, elevators, lobbies, meeting and break rooms, and other common areas; and

WHEREAS, the WHO and the U.S. Centers for Disease Control and Prevention (“CDC”) have advised all individuals to take measures to reduce their risk of COVID-19, especially the Delta and Omicron variants, including vaccination, which is an effective tool to prevent the spread of COVID-19 and benefits both vaccine recipients and those they come into contact with, including persons who for reasons of age, health, or other conditions cannot themselves be vaccinated; and

WHEREAS, a study by Yale University demonstrated that the City’s vaccination campaign was estimated to have prevented about 250,000 COVID-19 cases, 44,000 hospitalizations and 8,300 deaths from COVID-19 infection since the start of vaccination through July 1, 2021, and the City believes the number of prevented cases, hospitalizations and death has risen since then; and that between January 1, 2021, and June 15, 2021, over 98% of hospitalizations and deaths from COVID-19 infection involved those who were not fully vaccinated;

WHEREAS, a system of vaccination that requires employers to implement vaccination policies for their employees will potentially save lives, protect public health, and promote public safety; and

WHEREAS, on September 9, 2021, President Biden issued an Executive Order stating that “It is essential that Federal employees take all available steps to protect themselves and avoid spreading COVID-19 to their co-workers and members of the public,” and ordering each federal agency to “implement, to the extent consistent with applicable law, a program to require COVID-19 vaccination for all of its Federal employees, with exceptions only as required by law”; and

WHEREAS, on August 16, 2021, Mayor Bill de Blasio signed Emergency Executive Order No. 225, the “Key to NYC,” which requires the employees, as well as patrons, of establishments providing indoor entertainment, dining, and fitness to show proof of at least one dose of an approved COVID-19 vaccine, and such Order, as reissued in Emergency Executive Order No. 316 on December 13, 2021, is still in effect; and

WHEREAS, on August 24, 2021, I issued an Order requiring that Department of Education employees, contractors, and visitors provide proof of COVID-19 vaccination before entering a DOE building or school setting, and such Order was re-issued on September 12 and 15, 2021, and subsequently amended on September 28, 2021, and such Orders and amendment were ratified by the Board of Health on September 17, 2021 and October 18, 2021; and

WHEREAS, on September 12, 2021, I issued an Order requiring that staff of early childhood programs or services provided under contract with the Department of Education or the Department of Youth and Community Development provide proof of COVID-19 vaccination, and that Order was ratified by the Board of Health on September 17, 2021; and

WHEREAS, on October 20, 2021, I issued an Order requiring that City employees provide proof of vaccination to their agencies or offices by October 29, 2021 or be excluded from their workplace, and on October 31, 2021, I issued a supplemental Order, and both Orders were ratified by the Board of Health on November 1, 2021; and

WHEREAS, on November 17, 2021, I issued an Order requiring COVID-19 vaccinations for staff of child care programs, as defined therein, and in early intervention programs, and such Order was ratified by the Board of Health on November 19, 2021; and

WHEREAS, on December 2, 2021, I issued an Order requiring COVID-19 vaccinations for all nonpublic school staff and volunteers; and

WHEREAS, pursuant to Section 558 of the New York City Charter (the “Charter”), the Board of Health may embrace in the Health Code all matters and subjects to which the power and authority of the Department of Health and Mental Hygiene (“the Department”) extends; and

WHEREAS, pursuant to Section 556 of the Charter and Section 3.01(c) of the Health Code, the Department is authorized to supervise the control of communicable diseases and

conditions hazardous to life and health and take such actions as may be necessary to assure the maintenance and protection of public health; and

WHEREAS, Section 17-104 of the New York City Administrative Code (“Administrative Code”) directs the Department to adopt prompt and effective measures to prevent the communication of infectious diseases such as COVID-19, and in accordance with Section 17-109(b) of Administrative Code, the Department may adopt vaccination measures to effectively prevent the spread of communicable diseases; and

WHEREAS, pursuant to Section 3.01(d) of the Health Code, I am authorized to issue orders and take actions that I deem necessary for the health and safety of the City and its residents when urgent public health action is needed to protect the public health against an existing threat and a public health emergency has been declared pursuant to such section; and

NOW THEREFORE, I, Dave A. Chokshi, MD, MSc, Commissioner of the Department of Health and Mental Hygiene, finding that a public health emergency within New York City continues, and that it is necessary for the health and safety of the City and its residents, do hereby exercise the power of the Board of Health to prevent, mitigate, control and abate the current emergency, and hereby order that:

1. Beginning December 27, 2021, workers must provide proof of vaccination against COVID-19 to a covered entity before entering the workplace, and a covered entity must exclude from the workplace any worker who has not provided such proof, except as provided in paragraph 5.
2. Covered entities shall verify workers’ proof of vaccination. Covered entities shall:
 - a. maintain a copy of each worker’s proof of vaccination and, if applicable, a record of reasonable accommodation(s) as described in (b)(iv); *OR*
 - b. maintain a record of such proof of vaccination, provided that such record shall include:
 - i. the worker’s name; and
 - ii. whether the person is fully vaccinated; and
 - iii. for a worker who submits proof of the first dose of a two-dose vaccine, the date by which proof of the second dose must be provided, which must be no later than 45 days after the proof of first dose was submitted; and
 - iv. for a worker who does not submit proof of COVID-19 vaccination because of a reasonable accommodation, the record must indicate that such accommodation was provided, and the covered entity must separately maintain records stating the basis for such accommodation and any supporting documentation provided by such worker; *OR*
 - c. check the proof of vaccination before allowing a worker to enter the workplace and maintain a record of the verification.

For a non-employee worker, such as a contractor, a covered entity may request that the worker's employer confirm the proof of vaccination in lieu of maintaining the above records. A covered entity shall maintain a record of such request and confirmation.

Records created or maintained pursuant to this section shall be treated as confidential.

A covered entity shall, upon request by a City agency, make available for inspection records required to be maintained by this section, consistent with applicable law.

3. No later than December 27, 2021, a covered entity shall affirm on a form provided by the Department compliance with the requirements of paragraph 2 of this Order and post the affirmation in a conspicuous location.
4. For purposes of this Order:
 - a. "Covered entity" means:
 - i. a non-governmental entity that employs more than one worker in New York City or maintains a workplace in New York City; or
 - ii. a self-employed individual or a sole practitioner who works at a workplace or interacts with workers or the public in the course of their business.
 - b. "Fully vaccinated" means at least two weeks have passed after an individual received a single dose of a COVID-19 vaccine that requires only one dose, or the second dose of a two-dose series of a COVID-19 vaccine approved or authorized for use by the Food and Drug Administration or World Health Organization, or any other circumstance defined by the Department in its guidance associated with this Order.
 - c. "Proof of vaccination" means one of the following documents demonstrating that an individual has (1) been fully vaccinated against COVID-19; (2) received one dose of a single-dose COVID-19 vaccine; or (3) received the first dose of a two-dose COVID-19 vaccine, provided that a worker providing proof of only such first dose provides proof of receiving the second dose of that vaccine within 45 days after receiving the first dose:
 - i. A CDC COVID-19 Vaccination Record Card or other official immunization record from the jurisdiction, city, state, or country where the vaccine was administered, or from a healthcare provider or other approved immunizer who administered the vaccine, that provides the person's name, vaccine brand, and date of administration. A digital photo or photocopy of such record is also acceptable.
 - ii. New York City COVID Safe App showing a vaccination record;
 - iii. A valid New York State Excelsior Pass/Excelsior Pass Plus;
 - iv. CLEAR Health Pass; or

v. Any other method specified by the Commissioner as sufficient to demonstrate proof of vaccination.

d. “Worker” means an individual who works in-person in New York City at a workplace. Worker includes a full- or part-time staff member, employer, employee, intern, volunteer or contractor of a covered entity, as well as a self-employed individual or a sole practitioner.

Worker does not include:

- i. an individual who works from their own home and whose employment does not involve interacting in-person with co-workers or members of the public;
- ii. an individual who enters the workplace for a quick and limited purpose; or
- iii. non-City residents who are performing artists, college or professional athletes, or individuals accompanying such performing artists or college or professional athletes who do not have to display proof of vaccination pursuant to the Key to NYC program, Emergency Executive Order No. 316 and successor Orders.

e. “Workplace” means any location, including a vehicle, where work is performed in the presence of another worker or member of the public.

- 5. Nothing in this Order shall be construed to prohibit reasonable accommodations for medical or religious reasons.
- 6. This Order shall not apply to covered entities or individuals who are already subject to another Order of the Commissioner of the Department, Board of Health, the Mayor, or a State or federal entity that is in effect and requires them to maintain or provide proof of full vaccination or to individuals who have been granted a reasonable accommodation pursuant to such requirement.
- 7. This Order shall take effect immediately, and remain in effect until rescinded, subject to the authority of the Board of Health to continue, rescind, alter, or modify this Order pursuant to Section 3.01(d) of the Health Code.

Dated: December 13, 2021



Dave A. Chokshi, MD, MSc
Commissioner

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Transcript: Mayor de Blasio Holds Media Availability

November 22, 2021

Mayor Bill de Blasio: Good morning, everybody. Happy Monday. You know, we've been talking about all the ways that New York City is coming back. And we know what leads the way is vaccination. Vaccination leads the way to our recovery. But New York City's also helping to lead the way for this nation when it comes to big changes that are helping us fight COVID and come back. And a great example is when it comes to boosters. We believed strongly boosters should be for everyone. And we said it clearly. Our health care leaders said it clearly, we're just going to go out and make sure everyone who wants a booster gets a booster. We need clear, sharp, inclusive approaches. We shouldn't be saying, Hey, some people get it, some people don't. Anyone who wants a booster should get a booster. That's what New York City said.

Well, on Friday, that's what the FDA said as well. Pfizer and Moderna boosters approved for everyone. Anyone 18 years old and older can get a Pfizer or Moderna booster. And this is the time everyone, to go out there and protect yourself, protect your family. Get that booster. Listen, we spread the word. We expanded eligibility last Monday. What an impact it's had. Now, suddenly a lot of New Yorkers are coming forward and it's great. It's great to see so many people getting the booster. As of this moment, today 811,460 New Yorkers have gotten a booster shot already. And that number is going to grow a lot in the coming days. Go out, get your booster shot now. Now I want you to hear from someone who has been at the grassroots, spreading the message, leading vaccination efforts locally to make sure people are informed to make sure people get vaccinated, to make sure they get the booster. She's been a great partner in our efforts, in her own district and around the city as Chair of the City Council Committee on Hospitals. My pleasure to introduce Council Member Carlina Rivera.

[...]

Thank you so much, Council Member. And Council Member, I admire you. You're getting the powerful double shot. You're getting the booster and the flu shot. So, Council Member Rivera is making a great point, everyone. If you haven't gotten the flu shot, this is a great time to get that done. And yep, you can get them both done at once. Thank you very much Council Member. And everyone, New York City leading the way on vaccinations, safest place to be in the whole country now because of the high level of vaccination. And you should be proud of that. All of you, because you made it happen. Listen to this, as of today, 88 percent of New York City adults have had at least one dose of the vaccine, 88 percent. Staggering figure. You did that. As of today, 75 percent of all residents, all ages have had at least one shot. That's amazing. And as of today, over a hundred thousand of our five- to 11-year-olds are already vaccinated. They've gotten their first shot. Over a hundred thousand already. This is something that's just been available for the last couple of weeks. But parents are showing up. Kids are showing up. It's working. We got a lot more to do. But it's a great strong start. That's 15 percent of the eligible group already. That's well ahead of where the national average is. And New York City is going to double down to reach our youngest New Yorkers and keep everyone safe.

Now we're going to go farther, farther, farther. But one of the things we have to do, we have to constantly do is educate people and dispel a lot of misconceptions. There's still a lot of misinformation. The best way to fight misinformation is with the truth, the facts, the real thing. So, we have put together a very powerful campaign to get the message out. There'll be TV ads, radio, digital print, subway ads, you name it, multiple languages to tell people the truth about why the vaccine makes sense and why it's safe and effective and available to all. Let me show you one of these ads right now.

EXHIBIT #23

So, we're going to be getting that message out everywhere. But today we want you to hear from the ultimate myth busters. We want you to hear from some of the powerful, informed, wonderful voices who have seen us through this crisis. Our own Dr. Chokshi, Dr. Katz, Dr. Long. And each of them is going to speak to one of the myths. And I'm going to ask them in true or false fashion to really lay out the facts. Dr. Chokshi you are up first. You are the first myth buster. Dr. Chokshi, I hear it from a lot of people around this city. They say, if I get vaccinated, I could be infertile. Dr. Chokshi, true or false?

Commissioner Dave Chokshi, Department of Health and Mental Hygiene: Sir, the answer is false. Vaccines do not cause infertility. There is no evidence that the vaccines affect a person's fertility. And in fact, thousands of people have safely become pregnant after getting their COVID-19 vaccines. Sir, as you know, I'm the father of a young child myself and I don't take anything for granted when it comes to New Yorkers who are aiming to grow their families. But we can unequivocally state because the science is clear that the COVID vaccines do not impact a person's ability to become pregnant. We also know the risks COVID-19 can pose to pregnant women and that's why the nation's leading OB/GYNs strongly recommend the vaccine for their patients. So, here's the bottom line, sir, based on the data on the safety of COVID-19 vaccines during pregnancy and the risk related to COVID-19 itself, we strongly recommend vaccination for all people who are pregnant, breastfeeding, or trying to get pregnant now or in the future.

Mayor: Thank you so much, Doctor. You are an effective myth buster. Now I'm going to turn to Dr. Katz. Again, Dr. Katz, I've had this conversation with people multiple times. And what I hear is, oh, I had COVID already so I have total natural immunity. Dr. Katz, true or false?

President and CEO Mitchell Katz, Health + Hospitals: False, sir. And I hear it also from my patients as well as other people. But the best way, to be fully protected is to get vaccination. The studies have been quite clear that people who get vaccinated following an infection with COVID have more immunity than people who have only had COVID. And that's why we want everybody, whether they've had COVID or not in the past to get fully vaccinated. Thank you, sir.

Mayor: Thank you, Dr. Katz, another myth busted. Here's the third, Dr. Long. I hear this a lot. I hear it, particularly from younger folks. Hey, I'm healthy. I don't need the vaccine, true or false, Dr. Long?

Executive Director Ted Long, Test & Trace Corps: That's absolutely false. The vaccine is how you stay healthy. Young people can get very sick from COVID and what's been devastating for me, as a primary care doctor, is seeing some of my patients that are young people that were healthy, suffer from long COVID, meaning, having difficulty breathing, even mental health issues that, could have been prevented, if they would have received the vaccine earlier on, but don't just do it for yourself. This holiday season, do it for your mom, do it for your dad, do it for your family. You can protect them by getting vaccinated. And look, if enough people get vaccinated, we can end the pandemic as we know it for New York City, but we have to do it together with all the healthy people that could get vaccinated, as well. We can do this together if we get vaccinated. Thank you, sir.

Mayor: Thank you so much, Dr. Long. To all our doctors, you have been amazing powerful voices throughout this crisis and voices of truth.

So, everyone there it is, broken down as clearly as you could possibly imagine, I'm going to ask all New Yorkers help spread the truth, help break those lies and bust those myths, so we can get everyone safe, especially with the holidays and the colder weather coming on. Let's get everyone to be safe. Let's get everyone vaccinated. And you saw from those numbers before, New York City leading the way. Now, we have led the way so often, this city should be so proud. We've led the way so often, the things we've called for have often become the approach around the country, even become federal policy, as you just saw with the boosters. But there's another area where New York City has been leading the way. And it's also about the health and wellbeing of all our families. And that's when it comes to mental health. This city has set a standard, that's now being emulated for a focus on mental health, a focus on addressing the issues, de-stigmatizing issues, making sure we can reach people who need help. And five years ago, NYC Well was launched, 888-NYC-WELL. Since that time, this incredible approach, has answered 1.5 million calls, texts and chats. 1.5 million times, people who were experiencing a mental health crisis or had a loved one who was, had someplace to turn 24-hours a day for free multiple languages, lives have been saved because NYC Well alone. In addition, to so many other approaches to reach people who have mental health needs. Now, this effort has been a key example to folks all around the country. And the idea has been to take this idea of national and reach more and more places with a simple approach that provides really available mental health

This has been a passion of our First Lady Chirlane McCray. It's been a passion for the folks, the mayors, the local leaders in the City's Thrive Coalition, all 50 states. And there's been a real push to make sure it became federal policy. And someone who has believed in that, is the Acting Chair of the Federal Communications Commission, the FCC Jessica Rosenworcel. So, this has been a big effort for a long time to take this approach, make it bigger, make it national. And a lot of this has crystallized around the approach to a new phone number, 9-8-8, which the FCC has now decided is something the whole nation needs and deserves. I want to hear why this is so important from, the woman who got all started here in New York City, our First Lady Chirlane McCray.

First Lady Chirlane McCray: Good morning. I am so pleased that the FCC will now allow people to call and text, 9-8-8, that is beginning in July 2022 to reach the National Suicide Prevention Lifeline. This is a huge step forward and we owe a big thank you to FCC Acting Chair, Jessica Rosenworcel for her work in getting this done.

The pandemic has been an enormous stressor with social isolation on top of so much illness, loss, uncertainty fear. So, the 988 option is right on time. We need people to have the ability to connect to someone supportive, someone trusted that helps enormously and making people feel like there's a reason to move on. And this three-digit number is easy to remember. It's easier for people with physical disabilities. It's also handy for young people who prefer texting than talking on a phone, the FCC's decision to add this number will save more lives. And it's a number that we must make as familiar as 9-1-1. It will take time, but we must make it as familiar as 9-1-1. I'll work here in New York City and our work with leaders across the country has helped to reduce the stigma around mental illness and addiction and help to make mental health and substance use support, more accessible. And I hope having this number helps people realize that there should be more places where people can receive help before they are a crisis, before they reached their lowest point. No one should have to struggle alone for so long. I'm pleased that, NYC Well is a model that the government is looking at as an example of the kind of service 988 could be. That makes me feel very proud and I want everyone to remember, if you or someone, you know, is struggling with alcohol or drugs or in emotional distress that, you can pick up their phone and call 1-888-NYC-WELL. I'm going to say it again – 1-888-NYC-WELL. Or text WELL – that's W-E-L-L – to 6-5-1-7-3 for free and confidential support from a trained counselor right now or any time of day or night.

Thank you so much for letting us talk about this today, Mayor de Blasio.

Mayor: Thank you, my dear. I think this is something that, you know, once again, the City's been leading the way. Thank you for everything you've done and all the passionate people that you've gathered around to help de-stigmatize mental health, change the discussion in the city changes discussion in this nation. And we're going to hear from another great leader from one of the nation's most important mental health organizations that, focuses on reaching people, literally all 50 states with the help they need and breaking that stigma and changing the way that help has provided. It's my pleasure to present the CEO and President of Mental Health America, Schroeder Stribling

[...]

Mayor: Thank you so much, Schroeder. And thank you for the great work you're doing, and your colleagues are doing all over America. It's going to make a huge difference. It will save lives. And we here in New York City, we want to help in every way we can, share our experiences, share the success of 888-NYC-WELL. We're all in this together and making sure mental health is treated with the same importance and with parity to physical health, as a mission we all should be committed to. So, thank you for your leadership.

Now, everyone, we're going to go to our indicators now. And I am so happy about the first indicator today, because I told you earlier about the numbers coming up strong on the youth vaccinations. On the boosters, this number overall keeps growing very impressively. We are well on our way now to 12.5 million vaccination doses administered date. 12,437,097 to-date, growing rapidly. That is the most important thing. Number two, daily number of people admitted to New York City hospitals for suspected COVID-19 – today's report, 86 patients confirmed positivity. Number two, daily number of people admitted to New York City hospitals for suspected COVID-19, today's report, 86 patients, confirmed positivity 24.18 percent. Hospitalization rate per 100,000 New Yorkers is 0.64 and then a new reported cases on a seven-day average, today's report 1,200 cases. Okay, a few words in Spanish and going back to the myths we want to bust about vaccination.

Mayor de Blasio speaks in Spanish:

With that, let's turn to our colleagues in the media and please let me know the name and outlet of each journalist.

Moderator: Good morning. We will now begin our Q-and-A. As a reminder, we are joined by a Health Commissioner Dr. Dave Chokshi, Dr. Ted Long, Executive Director of the New York City Test and Trace Corps, and Dr. Mitch Katz, President and CEO of New York City Health + Hospitals. Our first question for today goes to Andrea from CBS.

Question: Hey, good morning, Mr. Mayor. Tomorrow the City Council is expected to approve and vote on the expansion of the New York Blood Center, which I know you've been a big proponent of, I just wanted to get your take on opponents who have said that the project is way too large for this residential block and approving it would set a dangerous precedent, and also approving it against the will of the local councilmen would also set a dangerous precedent for the rest of the city. Just your reaction to opponents to the project.

Mayor: I respect those who had real concerns, but I would just disagree given what's at stake here. First of all, it's the Blood Center. We desperately rely on this organization. It's not a government organization, it's a non-profit, and we rely on them to make sure there is a supply blood to save lives in the city. They have to be strong for the future. They have to be sustainable. Second of all, this project is crucial to the vision of New York City becoming the public health capital of the world. There's a big life sciences component here, and we need life sciences in crucial locations. That East Side corridor is one of the greatest life sciences concentrations in the entire nation, here's a chance to deepen it, life sciences leads to lifesaving cures. It's really important for our future. So given what's at stake, I think this is the right thing to do. Go ahead, Andrea.

Question: They were just saying that the Blood Center itself could expand within the zoning limits in the spot it already has, that the center is not going to take up the entire space as you just mentioned. Is there a better location for it?

Mayor: Well, it's a place that can be acted on in a way that makes sense because the Blood Center has to be sustainable. So, the whole package here allows them sustainability, physically, financially otherwise. Also that life sciences corridor, that exists only one place. So, I think it's really a particular opportunity. I don't think we should ever look at things narrowly. There are some particular places where something makes sense, and this makes sense overall. We heard the concern certainly from the community, there's important efforts being made to address those community concerns and some of the issues around the community, improve quality of life in the community, but this is something that's really important for the whole city.

Moderator: Our next question goes to Ayana from PIX-11.

Question: Hey, good morning, Mr. Mayor, how are you today?

Mayor: Good, Ayana, how are you doing?

Question: I am excellent. I am excellent. So, I know that the NYPD has on tight security every year for the Macy's Thanksgiving Day Parade. But after the deadly incident in Wisconsin, have you been in touch with the NYPD on, you know, how that might impact their security plan for this year?

Mayor: Thank you. It's a very important question. Look, it's tragic and horrible what happened in Wisconsin, but I will tell you, the NYPD for years and years has planned for very careful security around the parade. It's something we talk about the night before, we give an update every year on what's going on, but very meticulous efforts have been made to prepare. We've dealt with a lot of threats previously at this moment. There's no credible and specific threat to New York City, but we take it seriously and we're in a high state of preparation for sure. Go ahead, Ayana.

Question: That was all, that's it. Thank you.

Mayor: Thank you very much. Go ahead.

Moderator: Our next question goes to Matt from Newsday.

Question: Hey, good morning, Mr. Mayor, how are you?

Mayor: Good, Matt. How have you been?

Question: I've been all right, all right. The Ocean Breeze Athletic Complex in Staten Island is hosting the state high school indoor track championships. About two weeks ago it notified the state that it no longer was requiring competing athletes to have proof of at least one vaccination shot. When the state girls team tennis championships were held at the complex in Queens on November 5th, athletes had to be vaccinated per the city's policy and mandate. What changed to allow Ocean Breeze to send out this new guidance?

Mayor: I'm hearing this for the first time is the truth, Matt. I'm going to see if Dr. Chokshi knows something about it. Look, the goal here is to keep everyone safe, and so we obviously want clear rules that do that. We've had clear rules with our high school athletes in our public schools, and I think that's been really helpful, but this is the first time hearing of this. Dr. Chokshi, are you aware of this or any comment you want to make?

Commissioner Chokshi: Sir, I don't have any other detailed information about it, but we'll certainly look into it and follow up.

Mayor: Okay, so Matt, give us – we're going to, obviously, both of us need to find out what's going on and how we want to handle this, but I appreciate you bringing it to our attention. Go ahead, Matt.

Question: On another matter, I'm wondering among public employees who are subject to the vaccine mandate who are seeking exceptions whether for religious or medical reasons, among those who've already been adjudicated, what percent have been granted the exceptions and how many are left in the pipeline to be adjudicated? So, two questions.

Mayor: Yeah, no, that's an important question. So, I'm going to – let me start, and then Dr. Chokshi and Dr. Katz may have additional information overall, or certainly from the cases of there, you know, the examples of their agencies. Okay, first of all, the vaccination rate among city employees now is 94 percent. We're really happy about that. And by the way, we've seen an increase in the last few days in the fire department, the firefighting side is an 89 percent, the EMS side at 93 percent, fire department overall, 91 percent. So, that's a great, great number. We have very few folks now on leave without pay, and this gets into your question, Matt, I think now we're about 2,600 overall employees from the current mandate on leave without pay, so out of the workforce about 400,000. So, most people who are still waiting to get to a final resolution are in that category of they've asked for a reasonable accommodation, that's about 12,000 employees. In terms of the process, as it moves forward, remember there's the original decision. then they have an appeal if they want to use it. So that does take a little time, but our previous experience was overwhelmingly folks who did not get the accommodation, then the option of course, was either get vaccinated or go on leave it out pay overwhelmingly chose to get vaccinated. We saw that consistently. Dr. Chokshi, Dr. Katz, you want to add anything either on the overall numbers or from your own agency's experience?

Commissioner Chokshi: Thank you, sir. I'll just add briefly to say that the overall numbers of exemptions that are being submitted is quite small for the reasons that the Mayor has laid out. And each agency is working through their specific process to adjudicate those exemptions, and what we're finding is that it's a small percentage of a small percentage that ended up being granted, and the reason for this is that there are very few clinical contract indications to vaccination that allow one to qualify for a medical exemption. And then for religious exemptions, it has to be evidence of a sincerely held religious belief. So, the overall sense is, that as the Mayor has said that people are choosing to get vaccinated and we're working through this process, but it's a very small percentage at the end of the day of granted medical or religious exemptions.

Mayor: Dr. Katz, you want to add.

President Katz: I would just add that every person that anyone will meet at Health + Hospitals facilities at our clinics, at our hospital, every person you will meet is fully vaccinated. We feel very strongly about that to keep our patients and each other safe. Thank you, sir.

Mayor: Amen. And that we will, we'll get you the specifics on what the if you will, the batting average has been up to date on the previous round, so you can get that frame of reference.

Moderator: Our next question goes to Emma Graves Fitzsimmons from the New York

Times.

Question: Hi, good morning, Mayor. So I'm curious, why are you trying to ban horse carriages in Central Park again? And why does it make sense to try to reintroduce cars into Central Park after having just banned them in 2018?

Mayor: Yeah, Emma, this is something we're talking to the City Council about, and it's something, look I've believed for a long time, the horse carriages just don't make sense, they're inhumane. They don't make sense. It's the 21st century for God's sakes. And what we're talking about is not individual cars. It's - would be something for tourists, for folks coming to have a special experience, obviously a very different thing than allowing cars the other way. But this is something we're talking to the City Council about, and we'll see if there's something that could be done here and have an update soon. Go ahead, Emma.

Question: Thank you. And then thinking about your legacy with a month left, do you think that you reduced inequality in New York City, like you pledged to do during your 2013 campaign and where are you making progress before the pandemic hit, and then that, you know, worsens income inequality again?

Mayor: Yeah, look, Emma's a great question. I'll try and give you the short, clear answer. Yes. We reduced income inequality and inequality in general. There's no question in my mind, there's a hell of a lot more to do. But I think you're right to say sort of two years ago, where did we stand versus what is the pandemic done? Well, I can certainly say as of two years ago, we had gotten hundreds of thousands of people out of poverty. That's factually been proven. We know there was a huge transfer of wealth. I'm a believer in redistribution of wealth. It happened to the tune of tens of billions of dollars. It's been documented. It originally was documented in an amazing book by Juan Gonzalez, but it's been further documented since. Things like pre-K, 3-K, after school. They're all in addition to the good they do for kids, there are all a version of wealth transfer as well. They help working families. There are so many examples of addressing inequality on an economic level, and I think we've helped address it on other levels too, with a number of reforms. So, yeah, unquestionably now has the pandemic made everything worse for everybody? Yes, but that doesn't erase those gains because pre-K continues, 3-K continues, after school continues, I want to make it much bigger. That's the plan I announced last week I'd like to see for this whole state, a guarantee that every child can be in school until six o'clock every day to match parents schedules. I'd like to summer be guaranteed that every family knows 8:00 am to 6:00 pm, that they can have a place for their kid in the summer for free. There's more we need to do, but unquestionably, this team, this administration has done a lot to reduce inequality.

Moderator: As a programming note, we are now joined by Police Commissioner Dermot Shea. Our next question goes to Julia Marsh from The Post.

Question: Hi, Mr. Mayor, how are you doing?

Mayor: Good, Julia, how have you been?

Question: Well, I'm a little lonely over here across the hall and room nine. I'd love to be in the Blue Room with you.

Mayor: We don't want you to be lonely, Julia.

Question: Invite me over. Okay. So Politico had an exclusive on a new poll about the governor's race that shows not only do you have the highest unfavourability ratings as a potential candidate or a declared candidate, higher even than former governor Cuomo, but they'd eat away at Attorney General James' chances of becoming the country's first ever Black female governor. Given those factors, why do you think you should even consider joining the field?

Mayor: Well, look, Julia, I'm sitting here, I have the honor of being the mayor of the greatest city in the world, and I wouldn't be sitting here if I ever listened to polls. I mean it. In the beginning, when I ran for Public Advocate, I was way, way back. When I ran for mayor, I was way, way back. A lot of good people told me, you know, this isn't going to work out. It's not where you start, it's where you finish. I've learned this many times over. I feel that the important thing is to talk about the issues facing the people of this city, the people this state. And that's what I did last week, putting forward a vision of how we change the lives of working families. And that's my mission in life, whatever form it takes. Whatever form it takes, that's what I'm going to be working on. Go ahead, Julia.

Question: Thanks. On a different topic – in the past, you've downplayed violence on the subways, but a very frightening incident happened over the weekend where a straphanger was stabbed to death in an unprovoked attack on a 2 train pulling into Penn Station. Your friend and colleague, Mayor-elect Eric Adams says that perception is a key part of public safety. So, before you leave office, what more do you need to do to convince the majority of public transit users who were recently polled and said they don't want to come back, because they don't think it's safe, that it is safe to get back on public transit?

Mayor: Yeah. Listen, Julia, first of all, that was a horrible incident. We do not know everything we need to know about it yet. I'll have the Commissioner speak to it in the second. Horrible incident, for sure. I understand why anything like that is troubling to people. We need to understand what that was and why it happened. But I want to, at the same time say, of course, it's true to say perception and reality both matter. I am in the camp that believes reality is the single most important thing. The single most important thing is the facts on the ground. The NYPD – we surged a huge NYPD presence into the subways, highest level in decades. It had a big effect. Credit to the Commissioner and all the men and women of the NYPD. They got out there. They adjusted strategies. They drove down crime. If you look at the overall situation in the subways, crime is down from what we experienced last year and getting better. But these individual incidents are very troubling. I understand they do give people pause and our job has to be to constantly get out there, show presence, reassure people through action. It can be done. People are going to come back. The subway – we see the subway ridership growing all the time. People will come back. Our job is to keep showing them the evidence that things are moving forward. And last point before the Commissioner – the Commissioner said this, and all law enforcement folks I've talked to say this – as society normalizes, as people come more and more back to the offices, as the international tourists come back, as more and more law abiding people are around on the streets, in the subways, that also creates a safer condition, gets us back to where we were pre-pandemic where it, literally, was one crime per million riders. So, we can do it. We will do it. Commissioner, do you want to add?

Commissioner Shea: I would just say regarding the incident this weekend, it is very early in that investigation. I know it's been reported that it's an unprovoked attack. We are asking anyone that may have seen anything or heard anything to call Crime Stoppers. It is very early in that investigation and we're not leaning in any direction. We have a long way to go and a lot to learn about what exactly took place that night.

Mayor: Thank you, Commissioner.

Moderator: Our next question goes to Erin Durkin from Politico.

Question: Mr. Mayor, I'm wondering if you've had a chance to take a look at any of the top-line findings from the impeachment – Cuomo impeachment report that was released this morning. Do you have any immediate reactions? And, you know, the decision they've made is not to impeach him since he's obviously already out of office, but do you think that's the right call and do you think anything else should be done about this?

Mayor: Erin, I think the big question is going to be, obviously, what happens with other potential prosecutions, and that's still a very live issue. I have not seen the final report, but what I've heard is it confirms what we all feared, that there was a coverup in terms of the nursing homes – that horrible, tragic situation made worse by a coverup, in addition to other abuses of power. So, I think all of that is important information that people deserve. And the most important thing is how we make sure it never ever happens again. That has to – in addition to anything that happens personally with prosecutions directed at the former Governor, the other issue is how do we make sure this can never happen again? And something as precious as the way we protect our seniors is done right in the future, that's the crucial issue. Go ahead, Erin.

Question: Thanks. And then, following up on Emma's question about the horse carriages. So, I mean, obviously, this was attempted before. There was the deal, the deal collapsed – you know, there's just weren't the votes for it in the City Council. Is there anything that has happened, any information you have that will lead you to believe there may be enough support in the Council to do it, you know, at this late hour?

Mayor: That's the conversation we're having with the Council now. I think there's a lot of people who share the view that the horse carriages don't make sense anymore in our society. That's just – again, their inhumane. We've seen horrible, consistently horrible images of crashes with horses and the horses in pain, or, even worse, dying on the job. It's something that just doesn't fit in our society anymore and I think a lot of people in the Council share that view. But it's a conversation we'll have in the next few days and we'll see if there's something there that can be done.

Moderator: We have time for two more questions today. Our next question goes to Elizabeth Kim from Gothamist.

Question: Good morning, Mr. Mayor. I wanted to follow up on Emma's question about what you've done to reduce inequality. Of the policies that you've initiated, which of those would you say had the biggest impact on reducing income inequality? And is there data to back it up?

Mayor: Absolutely, Elizabeth. And we'll get you some of that data, for sure. So, again, sheer wealth transfer, wealth redistribution is powerful unto itself. It's now in the tens of billions. When you think about the impact – the money put back and working people's pockets with pre-K – and that's now hundreds of thousands of kids and hundreds of thousands of families that benefit. 3-K, of course, afterschool for free – all of these things – Summer Rising, this summer – all of these things took a financial burden off of working families and across the spectrum, but including low-income families. That's one piece of the puzzle. I think that one is particularly powerful, because it also – we've seen it in the test scores pre-pandemic – it's helping the next generation that, many of whom were born into poverty, have the educational tools to get out of poverty. AP for All is another example – advanced placement courses. What we've just started now with baby bonds, obviously a crucial example of how you build generational wealth. That's one swath. I think the other obvious thing to talk about is affordable housing. The massive investment – it's the biggest affordable housing initiative in the history of the city. It's going to reach 300,000 families, about 700,000 or more New Yorkers by the time it's finished. This is long-term, multi-decade affordable housing for working people, middle-class people, and low-income people. For the low-income folks, it means a total game-changer in their lives. The amount of money that are going to be saving each year over decades, that is profound. And the evidence we have is a number of people who've come out of poverty pre-pandemic, hundreds of thousands. We'll present all that to you. I think it's something that we all need to be proud of as New Yorkers, that we were able to make that impact on people's lives. Go ahead, Elizabeth.

Question: I also wanted to ask if you could give us some sense of the timing for the announcement on the middle school and high school admissions process?

Mayor: Yeah. We're working on that now, Elizabeth. We, obviously, want to in the next few weeks get those rules clear for people. That's something we're committed to doing. So, you know, after Thanksgiving, before Christmas. We don't have an exact date, but somewhere in that range.

Moderator: Our last question for today goes to Abu from Bangla Patrika.

Question: Hello, Mayor. How are you? Good morning.

Mayor: Good morning, Abu. How are you?

Question: Good. Good. Thank you so much for asking. My question is, last night, AP has a report about the uptick of COVID-19 in New York City. And you are talking about how the city is coming back and, you know, how people can have a normal life. But, you know, COVID is coming. A lot of people have a vaccinated, but they are also infected. What about New York City? What is the exact plan? How you are preparing the city and what is your plan?

Mayor: Yeah, Abu, a crucial, crucial question. Thank you. Very powerful question. Bottom line, we've watched very carefully with what's happening in parts of Europe. We've watched very carefully what's happening around the country. We've had this conversation, you know, the whole team, obviously with our health care leaders. Bottom line, heavy, heavy focus on vaccination – heavy focus on youth vaccination, heavy focus on boosters. If we keep doing that, we can protect the people of this city. We can make sure that we save lives. We can make sure that our hospitals are going to be okay. So, to me, we have the basic approach. We've got to double down on it. We've got to create urgency around it. This number I talked to you about today, 100,000-plus vaccinations for the five- to 11-year-olds, that's very encouraging to me, because that's the big opportunity areas to reach those young people and protect the families. So, I think we've got the right game plan. It's about really intensively implementing it in these coming weeks. Go ahead, Abu.

Question: Okay. [Inaudible] you know, have the experience of a pandemic and not like a month after you are not – you will not be the Mayor. What should be your legacy and what you'll be [inaudible]?

Mayor: Wait, say that last part again.

Question: Your top thing.

Unknown: Top thing –

Mayor: Top thing in terms of?

Question: In terms of your legacy. Yes.

Mayor: Legacy. Thank you. I'm sorry. Abu, look, I think what I'm proud of – it actually was great, the conversation earlier several of the questions about fighting inequality. I truly believe that we've changed the city. I truly believe we've taken a big bite out of inequality. There's a lot more to do, but, remember, we've added two more grades to our schools for free – pre-K and 3-K – and we've proven that you can give families a lot more, whether it's in terms of education, or affordable housing, or even something like paid sick leave, reaching more and more people with that right and keeping families healthy, making sure they don't have to give up a day's pay. All of these things work together to fight inequality and change people's lives for the long-term. So, I'm very, very proud of that. Obviously, for all of us, as New Yorkers, our fight against COVID has been heroic. I want to commend the all New Yorkers, every single human being who went and got vaccinated. I am honored to have served this city during our greatest crisis ever. And I believe New York City's legacy – and I'll be a part of that – is that we all banded together to fight back this extraordinary challenge. And now, we're one of the safest places in the country. But the thing I came here to do is to fight inequality. I'm convinced we've done a lot to make an impact. There's a lot more to do. That's why I put out the plan last week. There's a lot more to do in the city. There's a lot more to do in this state to actually reach working families in a way they deserve.

And with that, everyone, as we conclude today, again, thank you to everyone who has gotten vaccinated. We have these amazing numbers now. A lot more of you have chosen to get the booster. A lot of kids and families have come forward for the youngest New Yorkers. Let's keep going. It's getting colder out there. The holiday's coming. You can do yourself a favor, do your whole city of favor, go out there, get the young people in your life vaccinated. And now, everyone can get the booster. Go get that booster. The time is now. Do it today. Thank you, everybody.

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Transcript: Mayor de Blasio Holds Media Availability

October 21, 2021

Mayor Bill de Blasio: Good morning, everybody. We talk constantly and we need to talk constantly about a recovery for all of us, how we bring this city back strong, and then surpass where we were before the pandemic. If we're going to do that, then we have to deal with the issue that once the pandemic is done, all of our attention is going to go onto the climate crisis, and it needs to. We have to get this right. If we're going to have a future in this city, in this country, in this world, we need to deal with the climate crisis. In January, in the State of the City, I made a commitment. We were going to continue to not only take away pension fund dollars from the fossil fuel industry that has created this crisis, but to move more and more of our resources into renewable energy where we can literally save the world. This will be the difference-maker. I knew we could do it. I believed we could do something great. And now, New York City becomes the first in the nation to commit to net zero emissions in our pension fund investments – net zero emissions by 2040. This is revolutionary and it's an example to cities, states, counties, unions, nations, you name it, how to invest your money in a way that protects the earth. This is a very big deal. And with the money we took away from fossil fuel investments and other funds, we're focusing on the future – the renewable resources, renewable energy we need.

So, we're committing to a \$50 billion investment. This is something I said we would do in the State of City. We've achieved it, working with all of our partners in the pension funds – \$50 billion in investments in renewable energy by the City of New York, by our pension funds, by 2035. That's really huge. This is a lot of money that will make a big impact, help us move forward. It's the right thing to do for our retirees, because the future is renewable energy. That's where we're going to get the return on our investment. But, more importantly, it's how we save the earth. It's what we have to do for our children, our grandchildren. This is the future of New York City.

I want to thank all of our partners in labor, everyone; all the elected officials, everyone who supported this. But I want to give a special thank you to our Comptroller, who's here with us today. This has been a tremendous partnership to get this done. It is a Herculean move to go from where we were before to getting out of fossil fuels, getting into renewables on a huge scale – \$50 billion. Really appreciate all the hard work of our Comptroller and his team over these years to achieve this. My pleasure introduced Comptroller Scott Stringer.

Comptroller Scott Stringer: Well, good morning, Mr. Mayor. And thank you for bringing me here today. This is an incredible announcement that you are very much correct about. This took a long time coming, but you said it would get done, and we work collaboratively to make this happen. And I also want to just shout out the labor trustees, the labor leaders who joined us in this coalition, and as well as 350.org and the leadership nationally of Representative Alexandria Ocasio-Cortez, who I think is going to try to get here soon. But I want to just say that every year the crisis of climate change becomes more stark and immediate. It's immediate for our children, for our planet, for our retirees, as you mentioned. And that's why achieving net zero emissions is an economic health and moral imperative. And we have to act now. And we have to be bold. And, today, I think it's important for people to know we are putting our money where our mouth is. This is not rhetoric. This is real. And we have an achievable goal to double investments in climate change solutions to over \$8 billion by 2025 – step one. And then, a total of over \$37 billion in climate solution investments by 2035. And I think we both take pride in being the first city in the nation to commit to a net zero emissions plan. I think this is something that will have impact around the world.

We did it with fossil fuel divestment. Remember, Bill, they said it couldn't be done. And we're on our way to doing it. And we will finish that up before December. And now

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we take this to the next level. So, I want to thank you for your leadership. I want to thank the thought leaders who stood behind us. And I also want to thank the trustees who have always believed that the future of our city is making sure we have a clean and safe environment. And I want to say on behalf of my children, this is a very exciting day for me personally as we move the needle.

Mayor: I've got to tell you, Scott, we have known each other a long time and I want to thank you for what you did, your team did. But I also want to note, when you said, they said it couldn't be done, I remember vividly when I first heard how important it was to make sure that we addressed this crisis and that we could do something bold by divesting. I heard all sorts of people say – one, it can't be done. It's too big. It's too many billions of dollars. Where are we going to find the right investments? But I had a conversation the day before we announced – that really amazing day when we announced several years ago, divestment, I had conversation with Al Gore, and I told him what we were going to do, and he was very, very positive and appreciative, but he said something powerful. He said, tell anyone who doubts this, that you guys are doing the right thing for the retirees for the city, because the last thing you want to do is invest in industries that are going to have to leave their assets in the ground. That's the fossil fuel industry. They are the past. The future is renewables. That's where we are focused.

So, I want to turn now – Scott mentioned the great advocates, activists who honestly pushed us and then worked with us to figure out how to do this right. Of course, 350.org has been a visionary organization in seeing what could be, in leading the divestment movement, and understanding that we could do something very different. We had to do something very different. The day we announced originally divestment, Bill McKibben was there, one of the founders of that incredible movement. And today, we have the executive director with us. I want to thank her for all that she has done, for all that everyone at 350.org has done to help move this kind of initiative. We couldn't have gotten here without you. My pleasure introduced May Boeve.

[...]

Mayor: Hey, May, thank you so much. And I'm going to raise something here that I think you all have done so well, which to build this movement. When we got to divestment and, obviously, we happened to be the city that is the finance capital of the world, Comptroller Stringer and I reached out around the country, around the world. I talked to fellow mayors in this country and beyond, he talked to comptrollers and treasurers. We said, if New York can do it, you can do it. And we really wanted to help build this movement, because we had proven you could do this the smart and responsible way, but it is necessary – necessary to get money out of fossil fuels, into renewables. I spoke with Mayor Sadiq Khan of London, who is now going to be playing a huge role as a climate leader internationally. He saw what we did. He appreciated it. Mayor Anne Hidalgo of Paris, who's been a leader on these issues and may in fact be the next president of France, you never know. Big things are happening, big things are changing. But my question to you is, do you see this movement spreading now to mayors, to governors, to different parts of the world, different political leaders? Are they picking up the mantle now and going for it? Yes, divest off fossil fuels and move that money to renewables.

Executive Director May Boeve, 350.org: I think that is happening, but the pace of change is still too slow. That's what we're up against right now. And as my colleague, Bill McKibben, has said – and you mentioned him in your remarks, Mayor – acting slowly on climate change is the same as not acting at all. And so, we need everyone to step up and do more. And that is what the test is. But the good news there is that activists in every corner of the globe, doesn't matter if you are in Johannesburg or in any corner of the globe, you have an activist who's calling on you to do the right thing as a decision-maker. And we know from talking to mayors and talking to activists that it's that combination of people power and willing leadership that is going to get us where we need to go with our climate goals.

Comptroller Stringer: [Inaudible]

Mayor: Please, Comptroller –

Comptroller Stringer: There has never been a conversation I've had with Bill about climate change where he didn't give us three more things to do. So, once we were done with divestment, we were only beginning. And I think, as the Mayor says, this really is a people-driven fight, because it's in the streets, it's on people's minds, people are looking around the world. And I really hope, Mayor de Blasio, that what we did here today, the total body of our work, I do think it will reverberate around the State, and around the country, and nationally. And I think in Glasgow, this is going to be certainly a real talking point about what's possible.

Mayor: Amen. And I appreciate that deeply. And I want to bring one more point out with May and with our Comptroller – the sheer magnitude of the pension funds, not just New York, but the whole country, the whole world, the union pension funds, the local and State pension funds. I want to understand how much impact this could have. To me, when you look at the combined pension funds of the world – trillions, trillions. So, when New York City – one city – says \$50 billion on the table right now. So, I'll give you one opportunity here as the expert to talk about the sheer magnitude of this.

Comptroller Stringer: \$50 billion is not chump change. And the one thing I'm very proud of – and I want to say this to the naysayers – when the whole issue of divestment came up, were we acting as fiduciaries? Were we actually acting in the best interests of the people we serve, our retirees? And the answer through analysis and research was, yes. Because, as you said, we're not going to leave assets stranded, but we also now look at our returns for our pension fund. We hit nine percent. We doubled our investment. The pension fund is strong and we're also helping to clean our planet. So, you can have good returns, smart investment, but you can also have a real common good and you don't have to rely on the polluters to create retirement security.

Mayor: Yeah. And that's – this is the other piece I think is really important to highlight here. We were told, originally, you can't afford not to be in fossil fuels. And Comptroller, you and your staff were rigorous, right? I remember our first conversations. Of course, your first responsibility is to the retirees and the financial health of the pension funds. But this is what I also want you to speak to here, because I think it's so important – what Al Gore said to me, you know, the fact we've all been sold a bill of goods, because it's a dying industry, fossil fuels. And the hope of the world is renewables and renewables are getting better and better, and, if you want to think in financial terms, more and more profitable. So, can you speak for a minute about that analysis you did, why you became convinced and your team that this was also financially the smart thing to do.

Comptroller Stringer: Look, we were in your office and we agreed. And I remember this, we agreed that we had to fight for change and climate change. The question is, how did we go about it? So, we brought in the experts. We brought in the consultants. We brought in the people who could take a look at our investment fund and look at whether we can in fact do this. And, of course, we could do it, and we have done it, and we're going to finish that divestment before December 31st. Once we showed we can do this, we now have shown the world, we've shown other public pension funds what is possible. And I do think that when you look at the numbers, when you take your fiduciary responsibility very seriously as we did, you can actually make sound investment. And I do think this is the future. Look, it's not only what we divest from. What we're saying today is what we invest in. We've doubled our green investment between the Mayor's Office, our office, and our amazing labor trustees who understand that they are fighting for the future of their members. When you put this coalition together, it's unstoppable. And we have the numbers. We have the coalition. And we have, I think, elected officials who understand the urgency of now. We don't have 30 years anymore. The timeline is eight years at best. And, as Bill McGibbon, says every day we delay as another day that we put our entire planet at risk. And why would we want to do that?

Mayor: Look, thank you very much, Comptroller. This is sobering stuff, because that last statement the Comptroller made is an eye opener. We really need to acknowledge and the United Nations General Assembly, just here in New York a few days ago, really put a point on this – we are running out of time. I don't say that as a statement to make us depressed or hopeless, I say that as a statement of urgency. When we say we're running out of time, that should get us to feel we have to do everything and anything. When we say we're running out of time, it should say let's marshal all our energies towards a common goal and let's realize the extraordinary things we can do. The battle against COVID is a powerful example. It's been a very, very tough time. On the other hand, the global community came together. The global scientific community, health community, governments came together, created vaccines, distributed them in ways never seen before, faster than anything we saw before in history. We need to do that to address the climate crisis and then some. But we actually just got an object lesson in what's possible.

Now, speaking of what's possible, the idea that this nation, rather than being behind the curve, could lead the effort to save this planet. Well, a few years ago, a lot of people were doubters. And a few years ago, the goals were way too low. There was not enough hope. There was not enough ambition. But then, we saw some new voices that help to reset the equation. And a simple idea was put forward and I think it's a beautiful, powerful idea – the Green New Deal. When I heard it, I instantly loved it and believed in it. And we actually instituted major elements of the Green New Deal right here in New York City. But I want to give credit where credit is due, it took vision and it took an incredible sense of what is possible and how to push the spectrum and reset our imaginations. And we got that from a great leader right here from New York City. My pleasure to introduce Congress Member Alexandria Ocasio-Cortez.

U.S. Representative Alexandria Ocasio-Cortez: Thank you so much. Thank you, Mr. Mayor. And thank you to Comptroller. Thank you both for your extraordinary commitment on this issue and on climate. On the way over here, I was telling folks that we have a major climate announcement that is incoming and that it's actually good for once. You know, coming in and having to do a lot of our work in Washington D.C. often means that we see a lot of depressing news, especially with what's going on with ongoing reconciliation and budget negotiations. We're seeing the constant influence of big oil and dark money in lowering our national insight and national aspirations in addressing the climate crisis. And so, that can often get people down and make people feel cynical and, frankly, quite scared about the future for our city, our country, and our world. But today's announcement I think really shows that a lot of the action, and, I would argue the, the bulk of climate action in this country is not happening in Washington. It's happening in New York City and it's happening at state and local levels across the country.

And you had mentioned two years ago when we had rolled out the Green New Deal, one of the exciting things about the impact of introduced introducing the Green New Deal resolution was it's adoption at city, state, and municipal levels across the country. New York City, Austin, Texas, Los Angeles, the State of Maine, as well as many other areas have either brought a Green New Deal resolution to a vote or have passed it outright. And what today's announcement really indicates is a next level in our ability to combat the climate crisis. And that is essentially a full divestment from fossil fuels, from our public pension funds. And in New York City alone, this divestment can amount to over \$50 billion. Is that right?

Mayor: \$50 billion in investment in renewables.

Representative Ocasio-Cortez: And having that shift divesting from fossil fuels and then investing to renewable energy and climate infrastructure is exactly what we need to be doing in this moment in order to tackle the climate crisis. As the new – as one of the New York City members that sit on the Financial Services Committee, one of the things that I often see firsthand is how a lot of dark money, private equity, and Wall Street interests will offset some of their riskiest investments and least popular investments into public pension funds, which often sets up our public pension funds for crisis. But – and fossil fuels is a major element of that. Offsetting fossil fuel investments are becoming less and less popular by the day and people don't want to invest in them. So, a lot of these groups have been offsetting those investments into public pension funds. By New York City – with New York City divesting our public pension funds so that teachers and City workers can feel confident that their public pensions and that their investments are not contributing towards the climate crisis, but are actually contributing towards climate solutions, we're setting a model for the rest of the world. And so, from here in New York City, to Washington, to across the country, I want us to celebrate this decision. It is a major structural change in our energy investments. And I think we should challenge other cities, states, and countries to do the same, because divesting – using our public investments to divest from the fossil fuel industry is going to be one of the critical tipping points in making sure that we have the structural investments necessary to transition to renewable and clean energy.

Mayor: Congress Member, thank you. And I've got to tell you again – first of all, thank you so much for changing people's minds and resetting the entire sense of the possible with the Green New Deal. It is extraordinary. A special thank you, of course, to Senator Markey as well. What you did change the debate in this country permanently. And that's, you know, one of the highest callings I can imagine, to help people see a whole new reality. But I want to emphasize the point about people knowing their money is going someplace good, because decisions are made about people's money without their involvement. And what I've tried to do, what the Comptroller's tried to do is right that wrong. Now, what we all have to do, including leaders on the national level like you, is help everyone understand they have a say. Union members have a say. Citizens have a say. If your state, or your city, or your county, or your labor union is investing in fossil fuels, then that's not good for you. When you add up the impact of pension funds around the world, it's trillions. It's enough to create the solution. And so, we need your very strong voice, helping people realize what they can achieve. Yeah,

Comptroller Stringer: [Inaudible] say to you that as we struggled through the years to do a divestment and a green investment, there was a sea change with the Green New Deal. And when that came forward, it opened the door for discourse, for discussion. And so, today's a city announcement, but it's really a national announcement that you spearheaded. And I just want to thank you on behalf of everyone in the city. I don't think we would be here today if you did not walk into the Capitol and say, we're going to change this. And I know we both feel that way.

Representative Ocasio-Cortez: Thank you both so much. That's incredibly kind and generous. And I think that as well, you know, we have the U.N. Climate Summit right

around the corner, and we have leaders around the world, including President Biden, as well as many other delegates representing the United States. And the thing is, is that, with these – with the way that budget reconciliation is going in Washington, we cannot show up to Glasgow empty handed. We simply cannot. And, right now, dark money interests in Washington are trying to ensure that we do show up empty handed and essentially sacrifice the United States' leadership role globally in global reductions of climate emissions. We will not allow that to happen. Whether it's finding alternative ways, we will divest and we will transition the United States' energy infrastructure and our economy to be more just and to be better prepared to transition our energy infrastructure for clean and renewable sources.

Mayor: One more point Congress Member. And you – what you said is so powerful, because there is a lot of money here trying to take us in the wrong direction. I appreciate that you always shine a light on that. But I want to use our example as a bit of a good antidote to that. We're in the financial capital world. There's lots of money. There's lots of power trying to stop these things from happening. But here's what we're saying today, we're committing to net zero emissions in all our investments. We're committing to \$50 billion in new renewable investments and divestment from fossil fuels – that happened in the financial capital of the world. Now, those powerful, monied interests didn't like it, but they were powerless to stop it. So, a phrase I like to use, which I think is resonant with a lot of what you believe – I always say, don't let anyone talk you out of your own power. The people of this country have the ability to say to the leaders of their pension funds accountable to them, just stop. And that's more powerful than those monied interests, but we've got to sound the alarm, we've got to call people to the mission. And again, I know you can do that.

Representative Ocasio-Cortez: Yeah, and it's a – it's not an accident or coincidence whatsoever that this leadership is coming from worker-led pension funds. Worker-led public pension funds are leading the way in structural investments in clean and renewable energy, and it's not an accident. And I thank you both so much for prioritizing this.

Mayor: Amen. Thank you. Thank you, Congress Member. Thank you, Comptroller. There is some good news in the world, you know. And it means people need to get involved, stay involved, get even more deeply involved. And this brings us to another quick reminder, early voting. Early voting is coming up beginning Saturday, this Saturday, the 23rd, runs through Sunday, the 31st. Election Day, of course, November 2nd. To find your poll site, our lovely Board of Elections – let's hope they get it right this time – to find your poll site, go to findmypollsite.vote.nyc. And that's another thing we have to change is our Board of Elections, but that's a topic for another day. This will decide, obviously, the future of our city, these elections, so many offices up, important issues on the ballot. Please, everyone, get out there and vote. If early voting is easier for you, use it. It's a great resource.

And looking ahead – well, first of all, throughout this month and I'm wearing the purple ribbon today, we are focused on the fight against the scourge of domestic violence. We're focused on how we support people, support the survivors, stop domestic violence before it happens, make people aware, get people help. Very important efforts this month to change the way people think and to fight this horrible problem. And one more note that next week we'll be doing City Hall in your Borough in Manhattan, our fourth borough we've been to. And then in November to Brooklyn, which we're looking forward to greatly. Getting out there and announcing a lot of great things that will help the people of Manhattan, hearing from the people in Manhattan and their leaders. A lot of good stuff coming up next week.

Now to our indicators, as always, first and foremost, and one that I feel great about, the doses administered to date 11,890,187 doses. We're getting on the verge to 12 million doses, unbelievable. Number two, daily number – excuse me – daily number of people admitted to New York City hospitals for suspected COVID-19, today's report, 110 patients – confirmed positivity level of 13.04 percent. Hospitalization rate per 100,000, 0.70. And then number three, new reported cases on a seven-day average, today's report, 906 cases. A few words in Spanish. I want to go back to the topic of the day, the number one topic facing the world, the climate crisis and how we fight it.

[Mayor de Blasio speaks in Spanish]

With that, let's turn to our colleagues in the media, and please let me know the name and outlet of each journalist.

Moderator: Good morning. We will now begin our Q-and-A. As a reminder, we are joined by Dr. Ted Long, Dr. Jay Varma, Chief Democracy Officer Laura Wood, Director of the Mayor's Office of Climate and Sustainability Ben Furnas, and Director of the Mayor's Office of Pensions and Investments John Adler. Our first question today goes

Question: Good morning, Mr. Mayor, and everyone on the call. Mayor, not sure if you watched the mayoral debate live or recorded it and then binge'd it when you got home, but one moment from the debate that I wanted to point your attention to, when Eric Adams said, while he agrees with the mandate for vaccines for municipal workers, he would have renegotiated with the labor unions so you had more of a buy-in and less of a combative tone as you approach the deadline. So, did you catch that moment in the debate and how do you anticipate dealing with, particularly, the police and fire unions over this next week?

Mayor: Didn't watch the debate, and we've had lots of conversations with the labor movement over not just weeks, months about these issues. I understand the realities in the unions, the political realities, each labor leader has to make their own choice how to handle things. We've had very open, honest conversations. This was the way to actually get things done and fight COVID and save lives and help the city recover. So, I'm confident we did the right thing and I do appreciate — I have great, great faith in Eric Adams. I appreciate that he is supporting the plan here, the goal, and that's what matters. Go ahead, Andrew.

Question: The \$500 incentive, if it's a mandate, if it's a deadline, and these folks waited so many months to get the vaccine, why should they be entitled to a reward, which is greater than either the no reward that the first responders who got it early got, or the lesser incentives like a single baseball ticket from months ago? Why should you be rewarding folks who held out this long and not just require them to get the vaccine?

Mayor: Well, we are requiring them to get vaccine, and we're saying get vaccinated or you go on leave without pay. And I hope no one ends up on leave without pay, but I think that's a pretty clear line in the sand. Look, it's just about what will work to move us forward. We've changed incentives over time. In the beginning, there weren't incentives then we tried different types of incentives. This is just about getting the job done and I really want to focus on how we keep the city safe, how we save lives, how we move forward. I think this helps us do it.

Moderator: Our next question goes to Juliet from 1010 WINS.

Question: Yes. Good morning, Mr. Mayor, and everybody on the call. I actually want to follow up on Andrew's question. Yesterday, 1010 WINS spoke with Oren Barzilay, he's the head of the union for EMTs. And he was saying, let me just get to his question, hold on, give me one —

Mayor: Tread water for a moment, Juliet. It's cool.

Question: Yeah. Okay. Thank you. I had to scroll back up. So, in the conversation with him, he claimed that two of his members died after getting vaccinated. He says his membership is 50 percent vaccinated. He believes many of his members have natural immunity because many were already sick. And he says, why should they be forced now to get the vaccine? So, how do you respond to that mindset?

Mayor: Well, first of all, 189 million Americans have gotten vaccinated. And that's the reason we have a chance to finally put COVID behind us, but we're not done yet. But if you talk about what the vast majority of Americans have seen and concluded, and they've listened to the science, they've listened to their health care leaders, and this is the reason why we're able to move forward. I respect all labor leaders, but I also appreciate when people who are not doctors actually listen to the doctors. And there's been a massive consensus around this country in the health care community and the scientific community about vaccination. So, let's listen to some doctors. Dr. Long and then Dr. Varma, what would you say, just help — let's educate people. If someone says, 'oh, you know, one, if someone had the disease, therefore they have natural immunity, why should they get vaccinated?' I know, very strongly, the answer, but I want you to say it to the public. And then two, if in fact, God forbid, someone had gotten vaccinated, got the disease and died, well, that's really a rarity, but if it happened, what does it say about vaccination? So, Dr. Long first then Dr. Varma.

Executive Director Ted Long, NYC Test and Trace Corps.: Sure. Juliet, I appreciate your question. This is something that I talk with my patients about where I practice in the Bronx every week, all the time. What I tell my patients is the bottom line is that 98 percent of the people that have been in the hospital have been unvaccinated compared to only two percent having been vaccinated. And we know from the CDC that if you get vaccinated you now have an 11-fold protection from dying from COVID. And in terms of your risk of potentially dying from anything too many New Yorkers have died of COVID. The vaccine is the answer. 98 percent of the people in the hospitals now [inaudible] we looked at, had been unvaccinated. This is what we need to do to keep our city safe. No

question about it. And if everybody does get vaccinated, we can put this dark period behind this once and for all.

Mayor: Thank you. Dr. Varma.

Senior Advisor Jay Varma: Yeah. Thank you very much for the question. This issue about whether prior infection keeps you protected as well as vaccination is one that continues to be hotly debated. So, we absolutely understand why some people would like to say that well, because I already had the virus before I don't need to get vaccinated. Everything we know right now indicates that vaccinations benefit people who haven't been infected and benefit those who have been infected. What we know, based on all of the scientific data that we have right now, is that you can increase the strength and length of your protection against this virus by getting vaccinated. This has now been studied very carefully in a number of different – with a number of different vaccines and a number of different populations. There are certainly some people who retained long-standing protective immunity after prior infection, but the reality is we don't know how to differentiate those people who get that long-term protection and those who don't. And that is why the overwhelming scientific consensus is that regardless of whether you've been infected in the past, the safest thing for you and for your family and colleagues is for you to be vaccinated.

Mayor: Thank you very much, Doctor. Go ahead, Juliet.

Question: Okay. Thank you. So, given that only 50 percent of his membership is vaccinated, and people might not want to get vaccinated, or if they do resist, are you concerned about shortages in ambulance calls and responses if it's some of the membership there or EMTs just aren't going vaccinated [inaudible] –

Mayor: Yeah, Juliet, we've looked at this very carefully, worked with the leaders of each of those agencies who are in every case career members of their agencies. Look at Commissioner Shea, Commissioner Nigro, Commissioner Grayson, for example, other agencies as well. We have people who've been at it their entire life, know their members, know the reality. We've also looked at examples around the country, I talked the other day about the experience San Francisco had. We've looked at the experience the private sector has had, United Airlines and others. We've looked at, of course, what we experienced with the Department of Education and with Health + Hospitals. It comes all to the same conclusion. When you say resolutely, we care about you, we care about your health, we care about your family's health, and we care about the health of the people you serve, it's time to get vaccinated. We gave you every opportunity on a voluntary basis. We gave you an opportunity during the vaccinate-or-test period. It's time now. If you don't want to get vaccinated, you'll be put on unpaid leave. Well, the vast majority of human beings go to work to get paid. And, also, I think for a lot of our first responders, there's a calling. They believe in the work, they care about the work. Those two factors I think are going to cause the vast majority to get vaccinated. If there's any number who don't initially – well, again, some of them I think will get vaccinated after the fact and come back like the 3,500 school employees who have gotten vaccinated since the deadline and now come back – but we have contingency plans in place using overtime and using other capacity to make sure we can keep the service going. And that's what we prepared for, and we feel confident in those plans.

Moderator: Our next question goes to Bob Hennelly from the Chief Leader.

Question: Yes. Thanks for taking the call, Mr. Mayor. Will the impact bargaining you referenced yesterday be the process by which civil liberty protections that are existing law, like religious exemption as well as a medical exemption, because they're on the CDC website. There are rare instances where this [inaudible] for taking the vaccine. Is that the process by which you'll address that impact bargaining?

Mayor: Yeah. Well, first of all, we've said from the beginning in the Commissioner's orders we respect there are valid religious exemptions and medical exemptions. They are rare, Bob. They are rare in the scheme of things. When we saw, you know – obviously our biggest agency is the Department of Education. We saw very few religious exemptions that were valid and approved. We saw more on the medical, but still rare in the scheme of things. Of course, we want to give people an opportunity to put forward those applications if they want to. But we're starting impact bargaining immediately with all unions affected. We had a very successful effort previously, impact bargaining in the previous mandates. We got to a good plan with the UFT that became the pattern for many other models – many other unions. So, that process starts immediately. Go ahead, Bob.

Question: You referenced yesterday, the tragic national number of police officers that have died from COVID. We know that close to 400 New York City civil servants have died from the virus. We also know there is a growing body of medical research that

shows a significant percentage of people that survive a bout with COVID have long term consequences of varying severity. As an employer of conscience, which I assume the City is, are you doing anything to track these long term cases to look at the occupational issues they pose because I've spoken with many union members and they say, what they're concerned about is that this disease is – we're still learning so much about it and it is very much like the 9/11 World Trade Center issue in that the symptoms and diseases could be, we still don't really know. Are you tracking this?

Mayor: We're absolutely paying attention to this, and I'm going to have Dr. Long talk about the Centers of Excellence that Health + Hospitals has established for long COVID. And Dr. Varma can talk about this as well. We really want to make sure that if any New Yorker, one of our employees or any New Yorker is suffering long term impact that we're getting them help. We are – you're right, everyone's got to understand more about this disease and what it means. We know differently than what we went through in that horrible moment 20 years ago. We obviously know people who have COVID, we knew it from the beginning, and we're now tracking from the beginning and working with people from the beginning. And hopefully that's going to allow us to make sure people get the care they need. So, we care a lot about that issue. Dr. Long, why don't you talk about what Health + Hospitals is doing and then Dr. Varma, anything else about the latest science on how we address long COVID?

Executive Director Long: Yeah. Bob, I just want to start by saying, I really appreciate your question. Again, thinking about my patients, I've seen my patients suffer through continued difficulty breathing, hair loss, and a lot of mental health consequences from having COVID. That's what long COVID it is. And it is critical that we pay special attention to this, because this is going to be a very, very important part of our recovery from COVID. So, what we're doing through Test and Trace is we have a whole component of our program now called Aftercare, where we've now reached out to hundreds of thousands of prior cases, because we have all of their information in Test and Trace to see if they're still having symptoms. And if they are, we're connecting them, even by a phone call, to whatever services they need, including things like NYC Well which we've talked about before, or our new COVID Centers of Excellence. Which are new primary care oriented centers that have all of the care that we need to be able to deliver to people as part of their long COVID recovery. We screen you for all of the evidence-based symptoms, and then we could even do things like evaluate your breathing through pulmonary function tests, or your heart through an echocardiogram right then and there in that same clinic. So, we're taking this very seriously. And in New York City, we're doing something that others have not been able to do, which is actually proactively reach out to all of our former cases, to see if they're suffering from long COVID so that we can help. And I'm really proud that we're doing that.

Mayor: Thank you, Dr. Varma?

Senior Advisor Varma: Yeah. The only thing I would probably add to what Ted had to say, this is just more about the science issues, is emphasizing that we know that vaccination does not 100 percent protect you against getting reinfected. It is incredibly effective, of course, in severe illness, preventing hospitalizations and deaths. But one other benefit of vaccination that we're starting to learn is that if you are vaccinated and get a breakthrough infection, you appear to be much less likely to get these severe long COVID symptoms that we know many people are suffering from. So, there's many reasons to get vaccinated. But in particular, if you're concerned about the potential long-term effects of this virus, getting vaccinated is yet another reason why it's important.

Mayor: Thank you very much. Go ahead.

Moderator: Our next question goes to Steve Burns from WCBS 880.

Question: Good morning, Mr. Mayor. How are you today?

Mayor: Good, Steve. How you doing?

Question: Doing all right. I wanted to bring up a different topic here first and talk about restaurants. I understand yesterday the administration made a ruling on propane heaters for outdoor dining and said they will not be able to be used. Also saw the news about the grants available for natural gas or electric power heaters. But we've heard from a lot of restaurants that say, those just don't provide the same heating power without propane heaters. It could be a very difficult winter for them given that, you know, we didn't see too many high profile issues with them last winter. Why was this decision made to disallow propane heaters?

Mayor: Yeah, Steve. Fair question. Look, I really listened to the Fire Department. They're the experts on health and safety when it comes to propane, they believed even though we did, you're right, we had a good experience last winter. That was also in the

context where everything was on an emergency footing. And we were trying to find our way through the worst of the crisis still. Now that we're talking about a long-term approach – outdoor dining has been an amazing success. I want it to be part of the future New York City for years to come, but we now have to make sure it is sustainable. It is safe. It's done the right way. Fire Department feels strongly, and I agree with them, propane needs to be phased out. So, we're giving the restaurants the next month to do that. We are giving financial support. They know that the investment they make for a new solution is going to be a permanent investment because we've said that it will be permanent outdoor dining. So, it's an investment they can rely on. So, it's about safety and it's about sustainability. Go ahead, Steve.

Question: Thank you. And switching to a new topic, I wanted to ask about the 65 officers who the CCRB found should be disciplined, recommend discipline involved in the George Floyd protest last year. I know those cases are likely going to stretch past your term at City Hall, but as far as you can make the announcement now would you promise that those officers would be held to the discipline matrix?

Mayor: Oh, absolutely. First of all, I want to see those proceedings move as quickly as possible for it looks – we need speedy justice in every place. And I am concerned anytime justice is delayed. I'm particularly concerned just to make the parallel, our court system is still not functioning. I keep calling this out. It's ludicrous how few trials are happening in our court system. It's hurting all of us. It's hurting public safety. And Commissioner Shea said it the other day. The CCRB process, the police disciplinary process, is moving now aggressively. Why aren't the courts moving? But we have a lot of catching up to do at the same time, because of all the time lost to COVID. I want to see all cases resolved as quickly as humanly possible. The discipline matrix is in full effect. It revolutionizes police discipline, it's public, it's clear, it's binding, and there's an MOU between police and CCRB that makes it binding. The new administration of course, will assess everything, but every new administration unless they act differently, the previous rules remain in effect. And I would like to believe the new administration will see the real virtue of the discipline matrix and build upon it in their own way.

Moderator: Our next question goes to Ari from NY1.

Question: Good morning, Mr. Mayor. Can you hear me okay?

Mayor: Yeah, Ari. How are you doing today?

Question: I'm doing all right. How are you?

Mayor: Good. Thank you.

Question: I had a couple of questions on the news of the day with the divestment and the investment. I'm just curious if you could just detail a little more what the climate solutions are that the \$50 billion fund will be investing in? You know, you talked about net zero emissions in investments. What does it mean to have a net zero investment? Does that mean certain carbon capture technologies we're talking about? So, if you could just detail, you know, what the fund directors tend to invest in?

Mayor: Ari, I appreciate that question very, very much, because this is literally about our survival as human beings. And I've got two of my colleagues here who are very happy right now that you asked that question. Ben Furnas is Director of the Mayor's Office of Climate and Sustainability, John Adler Director of the Mayor's Office of Pensions and Investments. I want to shout them both out. Ben has been of the architects of literally, not only USA leading, but world-leading efforts this city is undertaken to fight climate change. John has been a great innovator of pension strategies that are socially conscious, that are progressive and that help working people and help save the climate. So, I want to thank them both for extraordinary service. How you do \$50 billion in renewable investments? How you do net zero investments? Ben, you start, then John.

Director Ben Furnas, Mayor's Office of Climate and Sustainability: Thank you, Mr. Mayor. And hi, Ari. Good morning. You know, this is really about investing in the types of technologies and industries that are going to build a safer future of tomorrow. So, this is everything from clean and renewable energy as the Mayor mentioned, energy efficiency, new technologies to help us reduce emissions. And when we talk about a carbon neutral portfolio, what we're really talking about is we look across all of our investments, it means we're doing a lot less to contribute to climate change than we are to stopping climate change. You know, when I think about this, you know, there are a lot of workers, I count myself among them who are, have retirement dates in the 2040s and the 2050s and the 2060s. And literally planning and fighting for a safer world, a safer climate in those decades, in the 2040s and the 2050s and the 2060s, that is our retirement planning. Fighting climate change is retirement planning for us. John, have

Director John Adler, Mayor's Office of Pensions and Investments: Yeah, I'll just add a couple of points in terms of this specific question about what constitutes climate change solutions, it's really any investment that helps achieve the goals of the Paris Climate Accord. So, it could be carbon capture if those technologies are developed, but you know, certainly renewables, energy efficiency, pollution control. Also, electric vehicles and electric vehicle infrastructure, right? We're going to need a lot more charging stations to help create the conditions by which there's widespread adoption of electric vehicles. So, those are the types of investments that we'll be making more of as we seek to achieve this goal of \$50 billion in climate solutions by 2035.

Mayor: Thank you. Go ahead. Ari. Ari, can you hear us? Ari? Ari?

Question: Oh, mic is on now. Thank you. I wanted to go back to some questions that I've asked in the past about investing in sustainable energy versus investing in resiliency? You know, you've suggested that these kinds of investments get at the root of the problem because it tackles a reliance on fossil fuels. But the latest UN Climate Report has said that climate effects are locked in, global temperature will continue to rise for at least three decades under any emissions scenario that we have access to right now. Which to some high-risk, some risks of pretty serious climate collapse. I'm curious what your thoughts are about what the City can be doing more to invest directly in resiliency? Since as a Congresswoman Ocasio-Cortez noted the federal government is not doing a ton and we have a risk of showing up to the next UN Summit empty handed in terms of a federal plan? So, can we really afford to wait for the federal government to make big investments and overhauls in our city's resiliency and adapting the city? How can the City create its own revenue streams to make these large investments that will prevent a worsening health, housing, and homelessness crisis caused by increased flooding and heat?

Mayor: Okay. Very powerful question, Ari. I appreciate it. Very big, big question. I'm going to start and then give Ben and John an opportunity to weigh in. This is what I'd say, first of all, job one is stop the climate crisis. I do believe there is a prioritization here, I hear you loud and clear, practically we're facing huge resiliency challenges. How do we weigh that against going at the root cause? I say, notwithstanding that some of these effects will be felt no matter what, we've got to go at the root cause because it's literally about survival. And we are different in New York City. We can do incredibly bold things on a huge scale, and then it pushes everyone else to do them. So, we are supposed to be a leader. That's who we are as New Yorkers. We've got to be as bold as we possibly can to set the model. And it's not unimportant we are the biggest city in the United States of America and it is not unimportant we are the finance capital of the world. We need to set the model and then get everyone else to follow, because that will stop the worst effects going forward that really would cost us much, much more in terms of resiliency. Second, we are in the middle of a \$20 billion resiliency plan. It is having a really profound, positive impact. We've got a lot more coming on that. And we need to keep investing on a city level. The kind of resiliency we need for the long term requires federal support. And I'm not giving up on that. It's been a strange patch in Washington, but I believe there's more and more of a consensus. I believe even the debate around President Biden's vision has proven there's more of a national consensus about investment than we've had in a long time. So, I truly believe there will be a lot of federal money and that's what will be crucial to us. But in the meantime, we're already doing the investments. There's a major, major initiative to protect Lower Manhattan. We did the Rockaway Boardwalk, 5.5 miles to protect the Rockaways, major investments in Staten Island, investments in Red Hook, Brooklyn. That's all going to continue. The City needs to put real money in. But to take it to the, really, to the next level, the futuristic level, requires federal help. Anything Ben or John, you'd like to add?

Director Furnas: Only to say that, you know, I think it's critical that we're doing both of these things at once. So, being as aggressive as we can to shift away from fossil fuels and reduce our emissions to mitigate the worst consequences of climate change while preparing our city for the 21st century. And federal partnership is going to be critical in that.

Mayor: John, you want to add?

Director Adler: Nope, I'm good.

Mayor: Thanks man. Okay, thank you. Go ahead.

Moderator: Our next question goes to Michael Gartland with the Daily News.

Question: Good morning, Mr. Mayor, and everyone on the call. How you doing?

Mayor: Good, Michael. How you been?

Question: I'm doing well. So, I have a question. This is for the Congresswoman, but you know, if anybody else wants to chime in –

Mayor: The Congresswoman – actually, Michael, she had to move on to, I think she had a finance committee hearing or something like that. So, she had to move on, but you go ahead on whatever else you want to ask.

Question: Alright, well, I'll put this to all you guys then. She alluded to that dark money, dark money interests that are pushing against the kind of shift you guys are talking about today. And I was wondering if someone on the call could, you know, in layman's terms, just explain how that works? You know, how is that working exactly? How are they pushing back? What are, you know, I mean, I get, there's a lot of money to lose here. But can you kind of, someone break that down for us, please?

Mayor: I'll give you my interpretation. I don't want to speak for the Congressmember, but I'll give you my interpretation. And John Adler might be interested in saying something on this because he has worked on these issues for so many years in the public sector and in the labor movement. My interpretation of that, Michael, is that there is a tremendous amount of money right now that is not traceable because of the way the laws work, that's going into trying to influence policy. This is the whole problem of the Citizens United decision by the Supreme Court, vast amounts of money trying to prop up the status quo in terms of fossil fuels and endangering the efforts to address the climate crisis. I think Congresswoman Ocasio-Cortez is exactly right. There's a huge amount of money being spent to try and stop us from divesting from fossil fuels and moving to renewables. But it is also true that unfortunately the laws make that very easy. And a lot of I think companies are using their vast financial power to try and keep the status quo in place. And our job is to fight against that. And the good news is when we made these moves -- and Michael, you know, every good journalist follows the money. I want you to follow the money when it comes to how we just divested from the fossil fuel industry and they couldn't stop us. So, it is a really interesting story about how the politics of this city have changed for the better, that I was able to, the Comptroller is able to, other elected officials, labor say, no, we don't care how much money you have. We're getting out of fossil fuels. We believe there's a better way. There's actually a very good news story there of political change. John, you want to add anything?

Director Adler: I'll just add that, I do want to point out that our divestment, as well as this climate action plan that we, the board approved yesterday are really based on an analysis that the financial returns of the future are not going to be superior by investing in fossil fuels or the technologies of the past, that we are, you know, we are – as fiduciaries of the pension funds that the Controller said and the Mayor said, we have an obligation to generate the best possible risk adjusted returns. And the perspective of us and our expert advisors is that investing in the carbon transition is going to be more fruitful for the pension fund than investing in the, you know, high carbon, high emissions economy that is coming to an end. And so, you know, again, I believe that the interests that have made money for so many years from fossil fuels are fighting the fight to try to continue that economy based on carbon emissions. But I believe that the economy itself is speaking, which is why today renewable energy is much less expensive than coal powered energy. Just as one example. That's all.

Mayor: Thank you, Michael. Go ahead.

Question: All right. I wanted to go back once again to this DOI report. You made some comments yesterday about your brother's travel in New Jersey, and we–

Mayor: His travel with me to New Jersey.

Question: Well, this is a point of contention –

Mayor: It could be a point – Michael, I want to interrupt you just for one second. I was there. I'm telling you live on camera. I was there but go ahead.

Question: All right. I hear you. So, when I asked DOI about this, the statement they provided said that what you said yesterday didn't align with sworn testimony, and at one point they cited specifically was that they said that under oath, you testified, that there may have been occasions when your brother was driven by the detail without you being present due to a "last minute change". I was wondering, I mean, could you address that? Did you kind of say this under oath, and then afterwards come to different conclusion?

***[redacted] Michael thanks you. It's not an ethical evaluation, and the really fascinating part is

Mayor: I'm telling you, I went to Palmyra, New Jersey with my brother, period. Period. Did it. Done. I said – I don't know about everything else that happened because I don't, but I know what I did going to Palmyra, New Jersey. I was there. So, it's as simple as that.

Moderator: We have time for two more questions today. The next question goes to Dana from the New York Times.

Question: Hi, Mr. Mayor, regarding your announcement today, I was curious if you could tell us how much in fossil fuel investments the city's pension funds currently hold.

Mayor: I'm going to turn to John Adler, and I think – if you will forgive me, Dana, the question is really where we started, because that's what we were working from. So, I will – we should answer where we are now. But I think for context, when we took office, when John Adler took over his role, then we moved to start divestment. We've been continuing the divestment presence - or excuse me – process ever since. So, John, why don't you give the, from the beginning to where we stand now and where we're going?

Director Adler: Okay, well when we announced the intention to divest in 2018, we've calculated that our exposure to fossil fuel investments was approximately \$5 billion. We are – so here's the thing, we are in the process of selling those securities, but I'm not at liberty to say exactly how much we sold and how much we are intending or still plan to sell because we don't want to move to market, and that's actually a violation of our fiduciary duty. I will point out that it is three of the boards that are divesting from fossil fuels, NYCERS, teachers, and the Board of Education retirement system that police and fire are not. But – and the fossil fuel – the value of the fossil securities is quite volatile as is the price of oil so that the final number, it will – I believe it will be equivalent to that \$5 billion or so that we ended up divesting, but we can't know until we've actually completed all those sales.

Question: Thank you. And then just another follow-up, and how exactly are you all defining fossil fuel investments?

Mayor: Excellent question, John, and obviously if Ben wants to add in too, go ahead.

Director Adler: So, we're – the definition is fossil fuel reserve owners, that is companies that own fossil fuel reserves. So, we are not divesting from, you know, other elements of the fossil fuel industry at this time, and each of the boards actually decided on its own list of securities from which the divest, there's a lot of commonality, you know, obviously the large integrated petroleum companies, but, you know, there's a lot of companies out there that where fossil fuels is not their primary business, and some of the boards are divesting from those and some are not. And also, the board's holdings are not exactly the same because they have different rosters of managers may own different securities, but the broad definition is fossil fuel reserves owners.

Mayor: And John, just for us lay people, fossil fuel reserves means the actual fuel, right? That they have reserves means - go ahead.

Director Alder: Yeah, well it's, it's oil, gas, coal, tar sands in – essentially in the ground, that they own those reserves in the ground.

Mayor: So, wrapping it together –

Director Adler: So, it's really the focus – focus on the stranded assets as you've mentioned earlier.

Mayor: Yeah. And I will just tell you, to wrap it together to Dana's question, I think this is the heart of the matter. All of the actual fuel that's poisoned the earth, and I was – I remember vividly, like it was yesterday I was at the Vatican 2015. Pope Francis had called leaders around the world together because he put out a papal encyclical about climate change and the need to fight it. And I heard Professor Jeffrey Sachs at Columbia university say, we need to strand those fossil fuels in the ground. It was a really important moment for me to just think – breakout of the thinking of the past. The idea that we would just leave them there. It was kind of a radical one to me at first, but it's made more and more sense to me with every passing day since. And the [inaudible] I made earlier, when we announced divestment, the conversation I had with a former Vice President Gore about the nonsensical reality of putting public money into an industry that has to be phased out and is losing ground every day and is less and less profitable compared to renewables. So, we do need to strand those assets. So, the point John's making, I just want to put a point on it. Is those companies that hold the oil, the gas, the coal, that is the target, get out of those companies, try and get them out of that business, move everything to renewables.

Moderator: Our last question for today goes to Yehudit from Borough Park 24.

Question: Good morning, Mr. Mayor. How are you doing?

Mayor: I'm doing well, Yehudit. How are you?

Question: Good. Thank God. So, the crime rate is very low in Borough Park and other Orthodox Jewish communities, except when people who live outside the neighborhood come in to commit hate crimes and other crimes like they did last Friday afternoon, to steal at gunpoint, more than a million dollars in jewelry from a resident who was parked on 47th street. The perpetrators came out of a car that had temporary New Jersey license plates. So, I'm wondering how can policing be improved to deter people who come in from other communities to commit crimes? And how does precision policing currently differ in communities when most of the crimes come in from other neighborhoods?

Mayor: Great question, Yehudit. Precision policing in fact, would be very much looking for the exact kind of pattern you just described. Two things, if we see robberies, if we see any kind of pattern, more than one occurring, what precision policing dictates is look at the pattern, determine where it might happen next, determine what kind of people might be behind it, what history they might have, and find them, stop them. And it's been very, very successful. And second, the temporary license plates. This is something you've heard Chief Harrison talk about a lot. There's been a huge push by the NYPD to go after temporary license plates that are fraudulent. They're often associated with a variety of crimes, even violent crime. That has been a systematic effort at the NYPD, that's led to many, many arrests, many guns being taken off the streets, many prosecutions. So, that's exactly the kind of thing that would cause the NYPD and the local precinct to focus on that kind of problem. Go ahead, Yehudit.

Question: All right. So, once I asked the question from my own perspective, but I'm now asking it as a mother of a teen who takes the subway in Brooklyn. And considering the 50 percent increase in subway [inaudible] would the Mayor consider deploying a visual array of uniform police officers at the subway stations and in subways to both create a deterrent to crime and also make commuters and parents safer?

Mayor: [Inaudible] officers in the subways in decades, and it's been very effective. Whenever we see any kind of pattern and some of the reporting this week exactly was the kind of thing we can go after we positioned policing, a specific pattern of a specific crime. Often that comes down to a very few people, who are organized, it could be that kind of crime. We can find them, we can disrupt them, we can arrest them, we can prosecute them. So, NYPD will adjust resources whenever necessary in the subways. But in this specific case, I believe it's going to come down to identifying those who are behind this very specific problem. And if we can sort of cut the snake off at the head, find the people behind it and stop them. I think we can solve the problem quickly. And that's what we intend to do.

Everyone, as we conclude today, just finishing where we started. We've all been fighting this battle against COVID the last year and a half. Thank you to all New Yorkers who have been vaccinated and everyone who will get vaccinated. We're turning the corner. It's not over, but we're turning the corner. But then we have to put our highest, best energies into fighting climate change. And what New York City is doing today, is an example of going to the next level. Commitment to invest \$50 billion. That is the kind of investment that will help renewable energy become dominant, that will help save the Earth. This is what we need more of. New York City first in the nation to implement these policies and leading the way. Thank you, everybody.

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AFFIDAVIT OF BRUCE MILLER M.S. CIH

EXHIBIT #25

STATE OF IDAHO)
) ss.
COUNTY OF BONNEVILLE)

BRUCE MILLER, being first duly sworn on oath, deposes and declares as follows:

1. I am above the age of 18 and am competent to make this affidavit.
2. I am a Board-Certified Industrial Hygienist (CIH) through the American Board of Industrial Hygiene, with a Master's Degree in Industrial Hygiene from Central Missouri State University, and I received my BS in Industrial Technology from Southern Illinois University with an A.A.S. in Bioenvironmental Engineering Technology,
3. I am President and owner of Health & Safety Services, LLC with more than 33 years of experience in comprehensive health and safety practice specializing in conducting retrospective exposure assessments for Department of Energy workers for Employees Occupational Illness Compensation Program (EEOICP) and Hanford Presumptive Claims, Occupational Safety and Health Administration (OSHA) General Industry (29 CFR 1910) and Construction (29 CFR 1926) compliance, and developing workplace exposure assessment tools and controls for environmental remediation, construction, demolition, water damage/mold projects.
4. I have managed and supervised health, safety, and health physics personnel and provided project management, planning, regulatory support, and oversight to numerous environmental remediation, waste management, construction, decontamination and decommissioning, and microbial and indoor air quality investigations, and remediation projects.

5. I have served as the Chair of the American Industrial Hygiene Association (AIHA) Law Committee, Consultants Special Interest Committee, and member of the Indoor Environmental Air and Environmental Affairs Committees.
6. My complete Curriculum Vitae is attached as **Exhibit A** and details my knowledge, skills and experiences.
7. Specifically, I have knowledge and experience with the OSHA regulations and compliance and applied experience writing, implementing and auditing OSHA 29 CFR 1910.132, “Personal Protective Equipment” and 29 CFR 1910.134, “Respiratory Protection” programs and implementing procedures to mitigate risks associated with hazardous agents and infectious diseases; I have conducted compliance inspections of hospitals and reviewed infectious prevention and control programs to verify safe healthcare work environments and best practices.
8. In preparation for providing my opinions herein, I have reviewed the New York State Department of Health Covid Emergency Public Health Law 2.61 (Attached as **Exhibit 1**), the New York City Department of Health Covid Emergency Public Health Emergency Orders dated August 24, 2021, September 15, 2021, October 20, 2021 collectively attached as **Exhibit 2 (a)(b)(c)**, and I have reviewed the applicable regulations of the U.S. Department of Labor, Occupational Safety and Health Administration, along with documents of several New York hospitals’ Covid-19 workplace program policies, including the affidavits and documents provided by a certain class of New York healthcare workers, including the class represented by Plaintiff, Rachel Toussaint (“Healthcare Worker Class”) against certain New York hospitals and on behalf of a certain class of New York City (NYC) government workers from various NYC agencies including the Department of Education, Department of Transportation, Department of Sanitation, NYC Central Administration, Department of Children’s Services (“NYC Worker Class”), represented by the Plaintiff, Amour Bryan, a

remote teacher for the New York City Department of Education.

FACTUAL BACKGROUND

9. Based on my review of the claims of the Healthcare Worker Class and the NYC Worker Class, both classes of Plaintiffs allege that they submitted requests to their employer to be exempted from the Covid-19 vaccine requirement implemented by NYC and the State of New York for healthcare employers pursuant to Emergency Orders issued by the New York State and City Departments of Health.
10. Based on my knowledge and experience consulting as an Industrial Hygienist for more than 30 years, there has never been adult vaccine mandates created or authorized by emergency order or otherwise by state or federal health officials as an occupational health and safety risk mitigation tool or control method for the purpose of eliminating or reducing the hazards caused by airborne pathogens and, in particular, airborne communicable diseases during a pandemic or even during an epidemic.
11. All of the exemption requests by each Plaintiff member of both Classes were denied, despite the fact that many of the Plaintiffs already worked remotely and had no contact with the public or had no direct contact with children if they worked for the Department of Education. In some instances, healthcare workers who refused the vaccine requested to be provided with or be allowed to use Powered Air-Purifying Respirator (PAPR) to keep themselves and patients safe while they worked face-to-face with patients. PAPRs provide a high level of respiratory protection greater than an N95 respirator or tight-fitting air-purifying respirator (APR).
12. All members of both Classes were subsequently terminated from their jobs and removed from their work sites by their employers because they would not comply with the employers'

implementation of NYS DOH and NYC DOH vaccine orders adopted by the employers as part of their workplace safety program.

13. Hospitals are one of the most hazardous places to work. In 2016, U.S. hospitals recorded 228,200 work-related injuries and illnesses, a rate of 5.9 work-related injuries and illnesses for every 100 full-time employees. This is twice the rate for private industry as a whole (U.S. Bureau of Labor Statistics).
14. According to OSHA, healthcare workers face numerous serious safety and health hazards in the workplace. They include needlestick/sharps injuries, exposure to bloodborne pathogens and biological hazards, potential chemical and drug exposures, waste anesthetic gas exposures, infectious respiratory hazards (including SARS-CoV-2), ergonomic hazards from lifting and similar repetitive tasks involving immobile patients, laser hazards, workplace violence, hazards associated with laboratories, and radioactive material and x-ray hazards.¹
15. The OSHA website on “Infectious Disease,” which contains guidelines for the risk management and mitigation for specific infectious diseases, specifically states that healthcare workers are occupationally exposed to a variety of infectious diseases during the performance of their duties. The primary routes of infectious disease transmission in U.S. healthcare settings are contact, droplet, and airborne.²
16. Since 1970, when OSHA was formed under the U.S. Department of Labor, it has been law that employers are specifically responsible and have a duty for providing a safe and healthful workplace for workers, specifically to prevent workplace severe injury and death. It is not the duty of employees to identify hazards, perform risk assessments and implement hazard controls to eliminate or reduce risks.

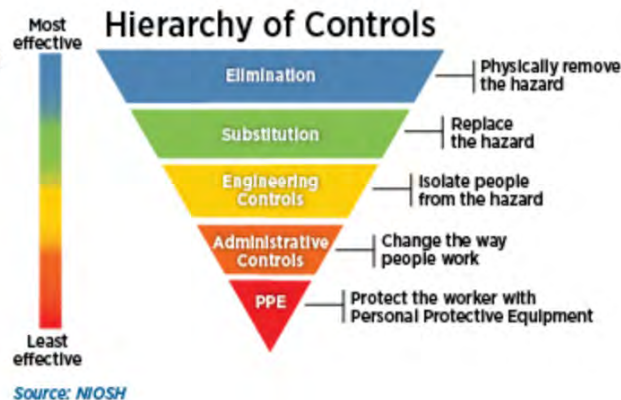
¹ See OSHA Healthcare Regulation Introduction. <https://www.osha.gov/healthcare>

² See OSHA Healthcare Infectious Diseases Guidelines - <https://www.osha.gov/healthcare/infectious-diseases/>

17. OSHA law expressly states that “the right to a safe workplace is a basic human right” and that “no worker should have to choose between their life and their job.”³ The OSHA regulations are applicable to most states in U.S. through the Approved State Plans, which includes New York.
18. OSHA regulations provides the minimum standards for employers to meet their duty to provide a safe workplace for their employees. In addition to specific OSHA standards, the general duty clause of the Occupational Safety and Health Act of 1970, 29 U.S.C. 654(a)(1), requires each employer to “furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.”
19. According to the OSHA “Recommended Practices for Safety and Health Programs”, employers are required to select the hazard controls that are most feasible, effective and permanent, with a focus on first eliminating the hazard; and, if elimination is not possible, the below diagram illustrates the hierarchy of controls (also known as –“AKA” risk mitigations”) that are to be used by employers which are the most effective alone or in combination that aids an employer in getting the closest to eliminating a hazard.⁴

Action item 2: Select controls

Employers should select the controls that are the most feasible, effective, and permanent.



³ See “All About OSHA”, U.S. Department of Labor OSHA Publication 3302-01R 2020.
<https://www.osha.gov/laws-regs/standardinterpretations/2011-08-05>

⁴ See OSHA Recommended Practices - <https://www.osha.gov/safety-management/hazard-prevention>

20. OSHA regulations specifically places the duty on the employers to identify and correct safety and health hazards in the workplace. This duty requires employers to first eliminate or reduce hazards by making feasible changes in working conditions, either through: 1) installation of workplace engineering controls, including but are not limited to installing ventilation systems to capture airborne particulates or aerosols, such as portable or fixed high-efficiency particulate air (HEPA) filtration systems, downdraft ventilation capture systems, and isolation of hazard sources with barriers to name a few, 2) implementing administrative controls, including, but are not limited to, changes to “how” an employee performs the essential functions of their job. Examples include training, limiting employee exposure time or location (which includes permitting remote work), screening to identify and isolate infectious patients, and other procedural requirements such as use of universal precautions, having infectious patients wear face masks, and posting hazard warning signs, and 3) providing personal protective equipment (PPE) where the workplace hazards cannot be controlled through engineering or administrative controls. Examples of PPE include, but are not limited to, protective clothing and gowns, gloves, face shields and goggles, respiratory protection, and hearing protection (hereafter collectively called “Risk Mitigation Tools”). PPE are to be used by the employer as a last line of defense when employee exposures cannot be reduced to an acceptable level using these other control methods.
21. OSHA Section 29 CFR 1910.132, Personal Protective Equipment, sets forth mandatory duties for all employers, including employers in the healthcare industry employees.
22. Employers are mandated under OSHA Personal Protective Equipment Standard, 29 CFR 1910.132, to conduct a hazard assessment to identify the hazards are present, or are likely to be present, which necessitate the use of PPE through a written hazard assessment.

23. Section 1910.132(d)(1)(i) specifically states:

“Select, and have each affected employee use, the types of PPE that will protect the affected employee from the hazards identified in the hazard assessment.”

24. Section 1910.132 1910.132(d)(2) specifically states:

“The employer shall verify that the required workplace hazard assessment has been performed through a written certification that identifies the workplace evaluated; the person certifying that the evaluation has been performed; the date(s) of the hazard assessment; and, which identifies the document as a certification of hazard assessment.”

25. This written hazard assessment is critical since it serves as the foundation for the selection of all PPE to be used by employees. Task and area-specific hazards should be evaluated within the hazard assessment so the selected PPE is tailored to the specific hazards, areas, and employee duties.

26. OSHA 29 CFR 1910.134, Respiratory Protection, mandates the employer’s specific requirements for the selection and use of respirators for protection against airborne hazards where other hazard controls are not feasible.

27. Section 1910.134(a)(1) specifically states:

“In the control of those occupational diseases caused by breathing air contaminated with harmful dusts, fogs, fumes, mists, gases, smokes, sprays, or vapors, the primary objective shall be to prevent atmospheric contamination. This shall be accomplished as far as feasible by accepted engineering control measures (for example, enclosure or confinement of the operation, general and local ventilation, and substitution of less toxic materials). When effective engineering controls are not feasible, or while they are being instituted, appropriate respirators shall be used.”

28. OSHA 1910.134(a)(2) further states:

“**A respirator shall be provided to each employee when such equipment is necessary to protect the health of such employee.** [Emphasis added] The employer shall provide the respirators which are applicable and suitable for the purpose intended. The employer shall be responsible for the establishment and maintenance of a respiratory protection program, which shall include the requirements outlined in paragraph (c) of this section. The program shall cover each employee required by this section to use a respirator.”

29. OSHA 1910.134, Respiratory Protection requires employers to select respirators based on an evaluation of respiratory hazard(s) to which the worker is exposed and workplace and

identified relevant workplace and user factors. This respirator-specific evaluation is in addition to the hazard assessment required by the 1910.132 Personal Protective Equipment Standard.

30. Section 1910.134(d)(1)(iii) further states:

“The employer shall identify and evaluate the respiratory hazard(s) in the workplace; this evaluation shall include a reasonable estimate of employee exposures to respiratory hazard(s) and an identification of the contaminant's chemical state and physical form. Where the employer cannot identify or reasonably estimate the employee exposure, the employer shall consider the atmosphere to be [immediately dangerous to life and health] IDLH.”

31. The OSHA Respiratory Protection Standard provides for progressively more protective respirators (higher protection factor) based on the concentration of the airborne hazard or risk mitigation strategy or on a voluntary use basis if a higher level of protection is desired by the employee. For example, employees may use National Institute for Occupational Safety and Health (NIOSH)-certified filtering facepiece respirators (N95) for general interactions with infectious Covid-19 patients or may request their employer to provide a more protective PAPR for aerosol generator medical procedures conducted on infectious Covid-19 patients or to just provide a higher level of protection. OSHA has assigned protection factors (APFs) for each type of NIOSH-certified respirators with an properly fitted N95 filtering facepiece and half-face APR having a APF of 10 and a PAPR assigned a APF of 1,000.

32. Before the SARS-CoV-2 virus that causes Covid-19 emerged and became an occupational exposure concern, the OSHA law mandated employers eliminate or control airborne and other “hazards” from the workplace. OSHA standards have never defined employees as inherently hazardous or being hazardous substances or materials that must be eliminated from or otherwise controlled in the workplace. It had always been the duty of the employer to protect the employees through hazard elimination or mitigation. In addition, OSHA has also never mandated employees be vaccinated to eliminate workplace hazards.

33. The history of the founding of OSHA as revealed in the publication “About OSHA”⁵, the agency was created to keep employees in the workplace and as safe as possible.
34. In the case of airborne hazards, including infectious diseases of any kind (such as SARS-CoV-2 Covid-19), employers have a duty to implement the hierarchy of controls to eliminate or isolate the hazard (infectious airborne virus or infectious patient) using engineering controls where feasible, or minimizes employee exposures through the use of administrative control measures, which can include working remotely for employees whose jobs can be performed remotely, with all remote work-related costs to be paid for by the employer pursuant to OSHA guidelines.
35. Where hazard eliminating, isolation or the use of engineering and administrative controls do not adequately mitigate the workplace hazard, OSHA requires employers to conduct a written hazards assessment to identify the appropriate PPE for employees to protect them from the workplace hazard(s) that may include the selection and issuance of respirators to prevent inhalation hazards, based on an airborne hazard assessment.
36. Employers have the duty to select respirators, conduct medical surveillance, fit-test and train employees on the proper use, inspection, and cleaning of respirators, and perform an Respirator Program assessment of their written Respirator Protection Program in accordance with 29 CFR 1910.134, Respirator Protection, Section §1910.134(l), “Program Evaluation”.
37. In the context of the hazards caused by infectious disease, and in particular during the Covid-19 pandemic, OSHA describes the hazards in a January 29, 2021 publication titled “Protecting Workers: Guidance on Mitigating and Preventing the Spread of Covid-19 in the Workplace,”⁶ as follows:

⁵ See U.S. Department of Labor - OSHA Publication #- 3302-01R - “All About OSHA 2020” https://www.osha.gov/sites/default/files/publications/all_about_OSHA.pdf

⁶ See OSHA January 29, 2021 publication titled “Protecting Workers: Guidance on Mitigating and Preventing the Spread of Covid-19 in the Workplace” at <https://www.osha.gov/coronavirus/safework>

“SARS-CoV-2, the virus that causes **COVID-19** is highly infectious and spreads from person to person, including through aerosol transmission of particles produced when an infected person exhales, talks, vocalizes, sneezes, or coughs. COVID-19 is less commonly transmitted when people touch a contaminated object and then touch their eyes, nose, or mouth. The virus that causes COVID-19 is highly transmissible and can be spread by people who have no symptoms and who do not know they are infected. Particles containing the virus can travel more than 6 feet, especially indoors and in dry conditions with relative humidity below 40%. The [CDC estimates](#) that over fifty percent of the spread of the virus is from individuals with no symptoms at the time of spread.”

38. Unlike chemical airborne hazards, aerosol transmission from infectious patients causes exposures that cannot be routinely measured in the air and have no established occupational exposure limits. Healthcare employees working in close proximity to patients, are likely to have a high risk of inhaling infectious aerosols (droplets and particles). Respirators for healthcare employees, and masks or filtering facepieces for contagious patients, are essential to prevent employee exposures. The selection of respirators with higher APFs (for example, PAPRs equipped with HEPA filters provide the highest level of respiratory protection) for healthcare employees.
39. Control and mitigation airborne infectious diseases are in fact nothing new for employers within healthcare occupation settings. The OSHA Standard 29 CFR 1910.1030, Bloodborne Pathogens, requires employers to have a written Exposure Control Plan designed to eliminate or minimize employee exposure when they are identified.
40. OSHA Section 1910.1030(b) states:

“Occupational Exposure means reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties.”
41. OSHA Section 1910.1030(d)(2)(i) states:

“Engineering and work practice controls shall be used to eliminate or minimize employee exposure. Where occupational exposure remains after institution of these controls, personal protective equipment shall also be used.”
42. CDC guidance documents such as “Hospital Respiratory Protection Program Toolkit, Resources for Respirator Program Administrators” (2015) and “2007 Guideline for

Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings, Last update: July 2019” provide detailed guidelines for the selection and use of respirators for healthcare workers exposure to airborne natural and manmade infectious disease hazards such as anthrax, noroviruses, monkeypox, multidrug-resistant organisms, tuberculosis, and viral hemorrhagic fevers (Lassa, Ebola, Marburg, Crimean-Congo fever viruses). CDC guidance clearly identifies the appropriate respiratory protection as the primary control mechanism to prevent or minimize healthcare workers exposures to these airborne pathogens where engineering controls and isolation are not feasible.

43. OSHA’s description of hazards associated with SARS-CoV-2 Covid-19 along with the declarations by the CDC, the President of the United States, and the New York State and City Public Health Commissioners, identify transmission through airborne means as the primary infectious pathway. The most effective Risk Mitigation Tool to prevent airborne transmission of the airborne aerosolized SARS-CoV-2 virus to healthcare employees that could result in severe Covid and death are the wearing of respirators equipped with HEPA filters (where other engineering controls and isolation measures are not feasible) that have **99.97% efficiency** in removing airborne aerosols that may include the virus that causes Covid-19 according to the Hospital Respirator Protection Program Toolkit first published May 2015 (“Respirator Guidelines”).⁷ The use of HEPA-filtered respirator has been longer standing strategy and the highest efficacy for infection prevention and control of airborne pathogens.
44. According to the Respirator Guidelines, there are a very small number of respirator types that meet the 99.97% efficacy rate, namely, 1) the HEPA filtered air-purifying respirators (APRs) and 2) HEPA filtered Powered Air Purifying Respirator (PAPRs).

⁷ See Hospital Respiratory Protection Program Toolkit published May 2015 by the U.S. Department of Labor, OSHA, CDC Workplace Safety and Health, Department of Health & Human Services, National Institute for Occupational Safety and Health (NIOSH) - <https://www.osha.gov/sites/default/files/publications/OSHA3767.pdf>

45. HEPA-filtered APRs and PAPRs have OSHA assigned protection factors greater than surgical facemasks (no assigned protection factor) with half-face APRs with a protection factor of 10 and PAPR 1,000, respectively. The combination of a tightfitting respirator seal, in the case of the APR, to minimize leakage around the face-to-facepiece seal with the HEPA filtration, provides a high degree of protection to the wearer. The PAPRs higher level of protection is based on a positive pressure around the wearer's face generated from air drawn by a pump through HEPA filters being forced into the PAPR facepiece or hood creating positive pressure. This equipment ensures any leaks or breaks around the face-to-facepiece seal or within the hood result in outward air movement away from the wearer's nose and mouth. PAPRs also provide cooling of the wearer and are more comfortable to wear over extended work shifts.
46. While the various vaccines released for use in the U.S. have been developed to reduce the symptoms of severe Covid-19 according to the CDC, they do not prevent the transmission of the airborne virus in the workplace. Under OSHA, employers have the duty to eliminate or reduce employee's exposure to the airborne hazards such as the SARS-CoV-2 virus and/or variants that cause Covid-19. OSHA's Bloodborne Pathogens Standard provides the closest analogous healthcare employment requirements for employers. Where the employer's Bloodborne Pathogen mandatory Exposure Control Plan identifies employee exposure to pathogens such as those containing Hepatitis B, the employer's duty is limited to making the Hepatitis B vaccine (which is the only reference to vaccines in the standard) available to pathogen exposed employees (not mandating the vaccine).
47. OSHA Section 1910.1030(f)(1)(i)⁸ states:
- “The employer shall make available the hepatitis B vaccine and vaccination series to all employees who have occupational exposure, and post-exposure evaluation and follow-up to all employees who have had an exposure incident.”

48. For all airborne pathogens, OSHA requires employers to provide the most effective controls to prevent exposure. When respiratory protection is required, the HEPA filtered PAPRs provide the highest filtration efficiency rate of 99.97% (and an OSHA protection factor of 1,000) to prevent inhalation of airborne infectious aerosol or particles that could lead infection, severe Covid-19, and death. PAPRs and supplied-air respirators are routinely worn when treating patients with more virulent infectious diseases, including viral hemorrhagic fevers (such as Ebola) that have a greater risk of causing immediate death than SARS-CoV-2 Covid-19. They are a proven and effective hazard control measure for employees.
49. Based on my knowledge of the various occupational industries like various manufacturing, allied trades such as welding, and chemical companies in the U.S. where engineering controls are not feasible and workers are exposed to highly toxic and carcinogenic chemicals, respiratory protection programs are routinely implemented to prevent worker exposures. Similarly, hospitals, biomedical laboratories, and other healthcare facilities, implement respirator protection programs as part of their infection prevention and control programs to mitigate risks of the transmission of infectious airborne aerosols that can lead to severe illness and death caused by respiratory pathogens. Therefore, respirator protection programs are feasible and demonstrated to be effective in the workplace.
50. The OSHA requirements cited are applicable to state and city governments, including New York City, through the State's OSHA Plans.

PRELIMINARY CONCLUSORY OPINIONS

51. Based on my review of the foregoing facts and based on my review of the relevant applicable OSHA regulations, guidelines, and mandates along with the New York State

and City Covid-19 emergency public health laws, I make the following preliminary opinions, with a reasonable degree of certainty as a certified industrial hygienist with experience in federal and state compliance, as follows:

- a. Under OSHA, employers have the duty to furnish to each of their employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.
- b. The OSHA regulations do not require employees to prevent severe injury and death in the workplace. The regulations only require employees to be trained in the proper use and limitations of safety equipment provided by the employer to eliminate or mitigate workplace hazards.
- c. Employers have the duty to identify workplace hazards, utilize a hierarchy of controls strategy to eliminate, isolate or mitigate all workplace hazards, including airborne infectious aerosols.
- d. Employers cannot delegate its hazard identification and mitigation duties under OSHA to employees and employers must bear the cost of implementing hazard controls measures to protect employees.
- e. Employers must conduct and certify a written hazard assessment to identify hazards and the appropriate risk mitigation control for employees to minimize injury and exposure from such hazards.
- f. Where respirators are to be used to prevent exposure, employers must conduct a hazard evaluation specific to airborne inhalation hazards to select the appropriate respiratory protection for employees to prevent occupation exposures to infectious airborne aerosols, such as the SARS-CoV-2 virus.
- g. Where it is not feasible to eliminate or otherwise control the airborne hazards associated with the infectious airborne SARS-CoV-2 virus that causes Covid-19 in

a healthcare workplace with engineering or administrative controls alone, wearing of NIOSH-certified respirators such as a HEPA-equipped PAPR provides the highest-level employee respiratory protection to prevent virus transmission through inhalation and mitigate exposure from other routes of entry, such as ocular and mucous membranes, without the use of vaccines.

- h. Eliminating and mitigating the airborne transmission of SARS-CoV-2 infectious aerosols that can lead to severe Covid-19 and Covid-19 related deaths in the workplace, is clearly the employer's duty, not the employees.
- i. Although the Covid-9 vaccines can reduce the symptomology and severity of the Covid-19 infection, vaccines are not effective in preventing exposure to or inhalation of the airborne aerosolized virus in the healthcare workplace setting. Therefore, the use of effective respiratory protection such as a HEPA-filtered PAPR by healthcare workers provides the greatest level of prevention from both exposure and infection.
- j. Employees that work remotely outside of the employer workplace, who work in single worker vehicles or single worker workspaces or work outdoors and do not have contact with the public and can perform most of the essential functions of their jobs without contact with other workers, are not at risk for occupational exposure to the SARS-CoV-2 virus while performing their duties. Therefore, employer mandated vaccinations for these employees are not necessary because these administrative controls effectively eliminate exposure to the employee or other employees.
- k. Providing remote work option for employees whose jobs can be performed remotely serves as an effectively occupational exposure control. Even if the employee becomes infected and is symptomatic with Covid-19 or variants other

employees remain protected since they are not in the workplace. Remote work is a risk control that should be used to protect an employee while allowing the employee to remain on the job.

52. The statements and opinions made in this Affidavit are preliminary and I reserve the right to add to, amend or modify my opinions as more facts are provided during the course of any litigation of the claims by Plaintiffs for which this affidavit is provided.

I declare under penalty of perjury under the laws of the State of Idaho that the foregoing is true and correct.

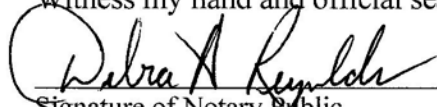
Dated this 13th day of APRIL, 2022.


BRUCE MILLER

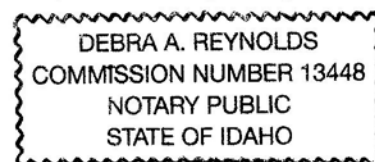
A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

Subscribed and sworn to (or affirmed) before me on this 13th day of April, 2022, by BRUCE MILLER, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Witness my hand and official seal.


Signature of Notary Public

[Affix Notary Seal]



CURRICULUM VITAE – BRUCE MILLER, M.S., CIH

Area of Expertise

- Comprehensive Industrial Hygiene and Safety
- Department of Energy Former Worker Retrospective Exposure Assessments
- Expert Health and Safety Consulting Services
- Workplace Accident Investigation and Regulatory Compliance
- Microbial Investigations and Indoor Air Quality

Education & Certification

- M.S., Industrial Hygiene, Central Missouri State University, Warrensburg, MO, 1993
- B.S., Industrial Technology, Southern Illinois University, Carbondale, IL, 1990
- A.A.S., Bioenvironmental Engineering Technology, Community College of the Air Force, 1988
- Certified Industrial Hygienist (CIH), American Board of Industrial Hygiene, (ABIH) #6439

Professional Organizations & Memberships

- Member, American Industrial Hygiene Association (AIHA)
- Member, American Conference of Governmental Industrial Hygienist (ACGIH)
- Member, Health Physics Society (HPS)
- Associate Member, American College of Occupational and Environmental Medicine (ACOEM)

SUMMARY OF QUALIFICATIONS

Mr. Miller is a board-certified industrial hygienist with more than 33 years of experience in comprehensive health and safety practice and 25 years of specialized environmental remediation and construction consulting experience at the Department of Energy (DOE), U.S. Army Corps of Engineers (USACE), and Department of Defense (DOD) clients and sites. He has managed and supervised health, safety, and health physics personnel and provided project management, planning, regulatory support, and oversight to numerous environmental remediation, waste management, construction, decontamination and decommissioning, and microbial and indoor air quality investigations, and remediation projects. He has served as an expert conducting investigations and preparing expert reports for both plaintiffs' and defendants' cases. Specialized project and legal experience researching, developing expert reports, and testifying in worker retrospective occupational exposure assessments and causation illness compensation court cases related to former defense weapons facilities and DOE national laboratories workers.

Mr. Miller has developed and implemented comprehensive health and safety programs and the supporting field documents to meet federal (DOE, DOD, USACE, Federal Aviation Authority (FAA), Department of Interior (DOI), and Homeland Security (HLS)), state, and local regulatory compliance. He has provided project management, direct health, safety, environmental, radiological field oversight of remedial investigation/feasibility study (RI/FS), remedial design/remedial action (RD/RA), construction and D&D projects at some of the most complex hazardous and mixed waste sites in the country. Projects have included large scale excavation, drilling, sampling; hurricane recovery; nuclear facility construction and demolition, and waste retrieval and characterization in radioactive and transuranic (TRU) mixed waste pits; remediation of high explosive fragment sites, and clearance of unexploded ordinance throughout the DOE Complex and numerous DOD facilities. He has broad-based experience in health, safety, and radiological regulatory compliance at national

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DOE laboratories, DOD facilities, US Navy facilities, numerous USACE Districts, construction sites, for industrial and commercial clients. He currently serves on national committees for the American Industrial Hygiene Association (AIHA) (Past Chair/Member of the Law Committee & Member of Indoor Environmental Quality Committee member) and was a past Chair of the AIHA's Consultants Special Interest Group (SIG).

CURRENT AND PAST EXPERT LEGAL WORK

Claimant Expert – Board of Industrial Insurance Appeals, State of Washington, Employer Motions for Summary Judgement, Washington Labor & Industry Cases (February 2020 – Present) - Serving as an industrial hygiene expert for current, former employees, and deceased (spouse) (Claimants) of the U.S. Department of Energy Hanford Site, who have filed affirmative claims under the "Hanford Site Employees—Occupational Disease Presumption," or Washington Substitute House Bill 1723 ("HB 1723") law. These claims are being challenged by the Department of Energy. Expert services have been provided through contracts with the State of Washington Attorney General's Office (AGO) and other law offices supporting these Claimants. Work scope includes providing expert consultation, preparing declaration opinions (as needed), and testifying in discovery and perpetuating depositions and Washington State Board of Industrial Insurance hearings. Expert testimony addresses current and past exposures directly related to Claimants' presumptive claims illness or diagnosis. Specific expertise includes detailed research of worker exposures to Hanford's chemicals, hazardous agents, and radiological hazards, examination of historic industrial hygiene and radiological exposure data, interviewing claimants, reviewing medical records, occupational medical surveillance data, developing claimant-specific exposure profiles and qualitative exposure assessments, review of toxicological and epidemiological data, studies, and NIOSH cohorts for relevant exposure agents, and evaluating claimant medical diagnosis against known toxicological chemicals or radiation for specific occupation exposure causation. Mr. Miller has provided testimony in more than 50 cases.

Defendant Expert – Case No. 4:18-cv-05189, United States of America, Plaintiff, v. State Of Washington; Jay Inslee, in his official capacity as Governor of the State of Washington; Washington State Department of Labor & Industries; Joel Sacks, in his official capacity as Director of the Washington State Department of Labor & Industries December 2018 – December 2019) Served as an industrial hygiene expert for the State of Washington Attorney General's Office (AGO) (Defendant), in the aforementioned case involving United States Department of Justice that has brought a suit against the State of Washington based on the enactment of a workers' compensation law, entitled "Hanford Site Employees—Occupational Disease Presumption," or Washington Substitute House Bill 1723 ("HB 1723") claiming that HB 1723 singles out and discriminates against the Federal Government. Mr. Miller provided expert consultation and rendering opinions related to the current and past exposures of Hanford workers for the AGO within the context of this lawsuit. U.S. District Court ruled against the U.S. Department of Justice in this case. The District Court decision affirming the WA State statute was appealed to the U.S. 9th Circuit Court of Appeals.

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Plaintiff Expert - Hanford Challenge, et al. v. United States Department of Energy and Washington River Protection Solutions, No. 4:15-cv-05086 – Settlement Agreement (March 2017 – December 2019) Mr. Miller served as the ‘Qualified Technical Person’ providing technical reviews and comments of several Hanford contractor respiratory protection program documents in support of the Washington Attorney General’s Office (AGO) under the Settlement Agreement with the U.S. Department of Energy. Technical reviews of numerous respirator cartridge testing reports and supporting documents (prepared by the Pacific Northwest National Laboratory on behalf of Washington River Protection Solutions as well as independent third-party consultants) were completed and comments provided the AGO. Cartridge testing was conducted to determine the ability of cartridges to effectively filter and absorb vapor and gases from the Hanford Tank Farm vapor phase at various tank wastes and to estimate cartridge service-life to develop cartridge changeout schedules. Technical reports were evaluated based on test design and chemical analysis methodology, National Institute for Occupational Safety and Health (NIOSH) respirator cartridge design and testing criteria, manufacturer’s cartridge NIOSH technical approvals, and known Hanford contaminants of concern properties.

Plaintiff Expert – Case No. 4:15-cv-05087, State of Washington, Plaintiff, v. Ernest J. Moniz, Secretary of the United States Department of Energy, the United States Department of Energy, and Washington River Protection Solutions LLC, Defendants (May 2016 – September 2018) – Served with a team of experts as the State of Washington Attorney General’s Office (AGO) (Plaintiff) industrial hygiene expert in this case involving long standing worker exposures to tank farm vapors at the Department of Energy, Hanford Site Tank Farms. Services included review of the AGO complaint, declaration for injunctive relief, discovery documents and reports, worker exposure incidents and medical surveillance, plaintiff regulatory requirements, and contractor implementing program and procedures and other related expert reports, declarations and depositions. Researched tank farm processes and history, contractor health and safety programs, DOE, NIOSH, and Government Accountability Office inspection reports, tank farm industrial hygiene exposure assessment and characterization, industrial hygiene program and implementation, toxicological data for tank content and vapors, and nature and extent of past worker exposure events. Prepared declarations in support of the AGO’s injunctive relief and supplemental preliminary injunction as well as draft expert reports. Additional support included preparing potential lines of inquiry for Defendant (Department of Energy and Contractor) health and safety experts and management personnel depositions related to worker health and safety and exposure events. Provided expertise on exposure mitigation, work process, engineering controls, personal protective equipment, respirator cartridge testing, medical surveillance, and ongoing technical expertise and support during settlement discussions with the U.S. Department of Justice.

Defendant Expert – Case No. CV-2014-300, Danita Bachman and Clayton Snook (P) v. The Jud 2000 Trust, Eugene D. Jud and Janice A. Jud, Trustees; Cid E. Hayden and John Doe Persons or Entities I through V (D), State of Idaho, in and for the County of Lemhi (August 2015 – April 2017) – Served as Defense industrial hygiene expert investigating water damage and subsequent microbial growth at the Plaintiff’s residence. Plaintiff asserts Defendants irrigation methods are flooding the crawlspace of the home. Conducted an investigation of the residence including visual and physical inspection, testing of building materials for moisture content, performed thermo-imaging of building materials, and collected air samples for laboratory analysis to quantify types of

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mold spores present; reviewed Plaintiff's expert's report and methodology and prepared lines of inquiry for Defendant counsel use during Plaintiff expert's deposition; prepared and submitted expert report with opinions to Defense counsel. Testified at trial as Defense expert for nature and extent of water damage and mold growth, sources of water damage and mold growth and required remediation for reoccupancy.

Plaintiff Expert - Case 4:15-cv-00165-EJL, Ralph Stanton (P) v. Battelle Energy Alliance (D), U.S. District Court, District of Idaho (February 2015 – October 2015) – Served as Plaintiff safety and health expert examining nature of accident and exposure of workers to plutonium contamination at the Zero Power Physics Reactor facility located at the Department of Energy, Idaho National Engineering Laboratory. Reviewed all relevant radiological, safety and industrial hygiene data and procedures; operational procedures and work packages; prepared lines of inquiry for deposition of Defendant key management and technical staff; reviewed deposition transcripts and supported Plaintiff counsel during and following depositions. Served as the technical manager and prepared the scope of work for radiological survey of Plaintiff's home by third party and analysis of all samples collected. This case was settled prior to the completion of my expert report and opinions, deposition or expert testimony.

Defendant Expert - Case No. 4:10-CV-184-EJL, Roy Santo (P) v. Acuity Brands Lighting, Inc; Lon Ricks Electric, Inc. (D), United States District Court for the District of Idaho – Served as Defense safety and health expert for the construction accident case involving a fall from a ladder resulting in a severe laceration from an exposed metal light fixture resulting in a permanent disability. Reviewed nature of the accident and conducting an accident investigation and multiple root causal analysis based upon available records and photos. Analysis consisted of reviewing all available accident reports and witness statements; Occupational Health and Safety Administration construction regulatory review of applicable standards including multi-employer worksites; ladder manufacturer's use and limitation; Plaintiff's and Defendant's witness's deposition review; and developed lines of inquire for Defendant counsel for Plaintiff deposition. Prepared expert report with opinions and submitted to Defense counsel. This case was settled prior to my being called as an expert to offer my opinions for deposition or at trial.

Plaintiff Expert - Case No. CV-09-4235, Scherr & Scherr, LLC (P) v. Kirk Wolfe (D), District Court of the Seventh Judicial District of the State of Idaho in and for the County of Bonneville – Served as Plaintiff industrial hygiene expert in case involving construction defects and latent damage caused by water damage to Plaintiff's professional building during construction. This expert work followed a water damage and microbial assessment of the Plaintiff's building (The Sleep Institute). Expert analysis on the nature and extent of the water damage was conducted. Analysis included a complete review of my previously microbial assessment and report; review of the construction timeline and material storage practices on site; analysis of the weather condition at the time of the construction activities where building materials were not enclosed; comparative water damage analysis with other assessments that I had conducted. My expert report was prepared and submitted to Plaintiff counsel. This case was settled prior to my being called as an expert to offer my opinions at deposition and trial.

CURRICULUM VITAE – BRUCE MILLER, M.S., CIH

Plaintiff Expert – Case No. CV-06-275, Sherry Fuqua V. Paul Olsen dba Paul Olsen Trucking; Paul Olsen, Individually; Marion Jerry Weaver, and John Does I-V, District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Blaine – Served as Plaintiff safety and health expert examining nature of an industrial work accident involving the Plaintiff who was a driver for the Defendant. Plaintiff was atop a truck when another driver moved the vehicle causing the Plaintiff to be dragged then thrown from the truck against a wall. A comprehensive review of Defendant's accident investigation, records and photos was conducted; Defendant trucking and operational facility procedures reviewed; training and other human resources records for the Plaintiff reviewed; fall restraint and other safety device manufacturer's use and limitations literature analyzed; and an accident root cause analysis developed. Additionally, lines of inquiry for Defendant witness depositions were prepared and discovery item requests submitted to Plaintiff counsel for consideration. This case was resolved before the expert report and opinions were completed. No expert deposition or testimony was given in this case.

Defendant Expert – Hymas v. Rockwell Homes, Inc., United States District Court for the District of Idaho – Served as Defendant safety and health expert for the construction accident case involving a fall of a worker from an elevated platform onto a piece or exposed rebar at a residential construction site resulting in an injury. Case involved multiple construction contractors, subcontractors and staffing agency that the Plaintiff worked through. A review of all available accident records, medical information, and photos was conducted; construction contracts were reviewed for terms and conditions and areas of responsibilities/oversight at the site; and applicable Occupational Safety and Health Administration Construction Regulations were reviewed and workplace requirements for fall protection identified. Lines of inquiry for the Plaintiff witnesses were prepared and an outline of the expert report was drafted. Prior to the expert report and opinions submittal date, this case was settled. No expert deposition and testimony was given in this case.

Third Party Expert – Farm Bureau Insurance Company, Pocatello, Idaho – Conduct an expert review and evaluation of the restoration of a water damage claim, subsequent mold growth, and area remediation conducted at a private residence in Idaho. The insured alleged that mold spores were released during the preliminary water and mold restoration activities and migrated to their occupied areas resulting the mold spore contributed negatively to the Insured's health. Mr. Miller prepared a expert report with opinions based on a site visit to the insured residence, inspection of the home and interview with insured; review of the adjuster's case file, field notes, and interview; interview with the water and mold restoration contractor; interview with the project industrial hygienist and review of their report; and review of the air, swab, and bulk microbial sampling data contained within the industrial hygienist report. All opinions were provided in my expert report. No deposition or court testimony was taken.

RELEVANT EXPERIENCE

President, Health and Safety Services, LLC
Idaho Falls, ID
2013 - Present

Responsible for day-to-day operations and marketing services for Health and Safety Services, LLC (HSS) which is focused on providing high-quality expert health and safety consulting services to

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clients. Primary HSS technical consulting services consist (1) Health and Safety Compliance and Consulting - compliance, inspections, violation mitigation and corrective actions, and development of regulatory complaint programs and policies; (2) Worker and Area Exposure Assessments - development of occupational exposure assessments in compliance with AIHA Exposure Assessment methodology including evaluation of exposure groups, engineering controls, work procedures, and personal protective equipment usage. This generally includes conducting exposure monitoring or sampling to document exposures and provide defensible exposure data as required by OSHA; (3) Expert Consulting and Report Writing - provide health and safety legal expert consulting and prepare expert reports for cases involving worker injuries and exposures, accidents and regulatory compliance matters; (4) Expert Testimony - serve as a testifying health and safety expert for cases involving worker injuries, exposures, accidents and regulatory compliance matters typically following expert consulting and report writing services. HSS specializes in expert case consulting in matters involving worker accidents, occupational exposures, retrospective exposure assessments, injuries and OSHA compliance and has represented both plaintiffs and defense in cases.

President, North Wind Solutions, LLC**North Wind Group****Idaho Falls, ID****February 2011 – April 2013**

As President, Mr. Miller provided vision and leadership by identifying new clients, business lines, and opportunities and ensuring that all work is carried out in a professional, technically complete manner. He served as the single point of contact with the Small Business Administration (SBA) and is responsible for developing and approving all business plans, joint venture agreements, and SBA 8(a) program compliance. He supervised project managers and met directly with clients to ensure all technical and contractual deliverables were completed on schedule and within budget. Mr. Miller ensured that operations of NW Solutions meet the philosophy, mission, strategy, and business goals and objectives of the North Wind Group. He ensured that corporate policies and programs related to health and safety, quality, procurement, contracts, and human resources are implemented on a daily basis and provided quarterly operational reports. Under Mr. Miller's leadership, North Wind Solutions grew from a startup to successful SBA 8(a) certified firm with a second SBA certified 8(a) Joint Venture with a combined backlog of more than \$12M in less than two years. Additionally, he was responsible for obtaining an Alcohol, Tobacco, Firearms and Explosives (ATF) explosive license and served as the corporate Responsible Person for the ATF license responsible to ensure all employee possessors purchasing, storing and handling explosives were compliance with ATF regulations and license requirements.

Sr. Vice President, Corporate Health, Safety and Security; Facility Security Officer**North Wind Group and all subsidiary companies****Idaho Falls, ID****February 2009 – February 2011**

Served as the corporate point of contact for health, safety and security matters for the North Wind Group and 6 subsidiary companies consisting of over 400 employees working from 18 offices throughout the US and with revenues exceeding \$100M annually. Reported to the President of the North Wind Group and developed and implemented all health, safety and security programs and

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procedures, tracked and report performance metrics and took correction actions where needed to improve performance. Under Mr. Miller's leadership, the North Wind Group and subsidiary companies maintained an experience modification rate (EMR) well below their industry averages, obtained and maintained two OSHA Voluntary Protection Program (VPP) STAR sites, was awarded the OSHA VPP Star among Stars award, and was successful at having several years with zero OSHA recordable or lost-time injuries.

As the Facility Security Officer (FSO), Mr. Miller controlled all aspects of the North Wind Group and subsidiary Department of Defense and Department of Energy facility security clearances including developing all security and operational security plans, maintaining government contractor required security databases, facilitating new subsidiary company and personnel clearances, and interfacing with government agency security and counter-intelligence/terrorism counterparts during audits and program oversight to ensure compliance with security regulations.

Vice President, Corporate Health and Safety Director**North Wind, Inc.****Idaho Falls, ID****February 2004 – February 2009**

Developed and maintained all corporate health, safety, and radiological programs; reviews and approves project health and safety plans and procedures for all North Wind Group Companies including natural and cultural resources, remediation, treatment, construction, demolition projects and operating facilities. Health, safety and security lead for 18 North Wind offices and provide direct support to projects in all North Wind Group geographic locations. Worked with workers compensation policy holder, professional organization, OSHA VPP Program office and remediation industry H&S professionals to ensure all programs provided for an effective safety culture and corporate H&S goals are met. Supported strategic planning, teaming and proposal development, project management, and served as a technical resource for internal and external customers. Provided expert consultant and witness industrial hygiene and safety services and testimony for attorneys regarding accidents, exposure assessments, microbial/IAQ, safety issues and other health and safety related cases.

He has written procedures, conducted training, and established medical surveillance programs to control exposure to radionuclides, heavy metals (arsenic, asbestos, beryllium, cadmium, chromium, lead), mercury, and solvent contaminants in compliance with OSHA substance standards at uncontrolled hazardous waste sites. Project sites have included waste pits/trenches, contaminated soils and underground storage tanks, mine tailing piles, landfills, drummed hazardous waste, UXO/MEC, radioactive structures and piping, and radioactive and mixed (hazardous/radioactive) waste and debris locations throughout the US for the DOE, US Air Force, US Coast Guard, US Army, NAVFAC, USACE, commercial, and private clients.

CURRICULUM VITAE – BRUCE MILLER, M.S., CIH**PAST MAJOR PROGRAMS & PROJECTS**

Program Consultant, HSS, LLC – North Wind Solutions, LLC for the U.S. Navy, Space and Naval Warfare Systems Command (SPAWAR), SPAWAR Systems Center Pacific, Marine Mammal Program (MMP), San Diego, CA (2013) – Served as the program consultant to transition program manager responsibilities to new program manager. Facilitated client and staff meetings, reviewed program operations metrics and budgets, provided budgeted staffing levels and recommended changes to increase efficiency. Additionally, wrote the North Wind Dive Safety Manual and developed all Dive Plans/Dive Hazard Analysis for all topside and underwater dive operations to meet requirements of OSHA 29 CFR Subpart T, Commercial Diving requirements. Developed fiscal year end program metrics to Navy client demonstrating all contractual performance objectives were met or exceeded with zero change orders or client concerns.

Corporate Sponsor/Program Manager – U.S. Navy, Space and Naval Warfare Systems Command (SPAWAR), SPAWAR Systems Center Pacific, Marine Mammal Program (MMP), San Diego, CA (2012-2013) – Developed the technical and cost proposal and served as chief negotiator to secure this \$6M+ 3-year firm fixed price contract to serve as the construction and maintenance contractor for the Navy's MMP. Program included constructing, maintaining, and cleaning mammal enclosures and associated docks and platforms, storage sheds, and support MMP operational buildings. Routine diving and boat operations were required to maintain MMP locations throughout the San Diego Bay area. Additional responsible for emergency and requested maintenance of two additional MMP locations in the Pacific Northwest and South Atlantic regions. Developed all operational operations metrics, budgets, and conducted oversight to ensure client requirements and MMP animal safety requirements were met. Developed new dive program, dive medical surveillance protocol, upgraded all dive gear, created new maintenance database, and improved dive efficiency through better scheduling and coordination of dive tasks with MMP personnel. Exceeded all contractual performance metrics with zero safety incidents while exceeding project profit target.

Project Health and Safety Manager - U.S. Department of Homeland Security, United States Coast Guard, Base Support Unit, Pier 36, Building 3, Seattle, WA (2012) – Served as project health and safety manager and principal certified industrial hygienist to provide direct support and oversight of lead paint removal and encapsulation of the Pier 36, Building 3, a single-story warehouse structure constructed in 1930 with a footprint of approximately 200,000 ft². The \$15M contract required extensive scaffolding erection (large area scaffolding spanning approximately 12,000 ft² for each area abated with levels 4 through 6 greater than 50 feet high). A negative pressure HEPA-filtered lead abatement containment was constructed over existing occupied office and command facilities to isolate personnel and allow for continuous operations during media blasting, cleaning and encapsulation of lead-based paint located on building metal trusses, asbestos corrugated roofing and walls. Extensive air sampling and continuous ventilation pressure monitoring of containments was conducted to provide objective evidence to USCG Command and occupants that lead control work area containment integrity and controls were functioning adequately during their occupancy. All work was completed with zero OSHA recordable injuries and all lead exposures to abatement workers and outside containment were well below the established occupational exposure limits.

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Project Health and Safety Manager – U.S. Department of Energy (DOE), Idaho National Laboratory (INL), Pit 10 Accelerated Retrieval Project (ARP) VII Nuclear Facility Design/Build Construction Project (2010-2011) – Served as project health and safety manager responsible for preparation of all health and safety documentation to meet DOE requirements for the \$17M design and construction of a retrieval enclosure structure to be used to remediate transuranic mixed waste located in the Subsurface Disposal Area of the Radioactive Waste Management Complex at the INL. Facility was constructed as a Category 2 nuclear facility. Health and safety documentation including 10 CFR 851, *Worker Safety and Health Program*, Integrated Safety Management System, Construction Safety Plan, Hoisting and Rigging Plan, and all work packages and associated Job Safety Analysis in compliance with Occupational Safety and Health Administration (OSHA) 10 Code of Federal Regulation (CFR) 1926, *Construction* standards. Additionally, responsible for developing and overseeing all medical surveillance requirements, served as the North Wind representative for all INL site stabilization agreements and collective bargaining associated with trade unions workers that were direct hired by North Wind for construction.

Project Manager/Lead Investigator – U.S. Army Corps of Engineers, Savannah District, Air Sampling Analysis for Mold Prevention Technology Demonstration Project, Ft. Gordon, GA (2009-2010) - Served as Project Manager/Lead Investigator evaluating two ventilation system treatment technologies (UV light and hydrogen peroxide) installed to destroy airborne biological contaminants in multiple HVAC air handling units serving Army Barracks where Warriors in Transition (service members from Operations Enduring Freedom and Iraqi Freedom injured in combat who are transitioning back to civilian status). Study consisted of conducting a series of five rounds of air sampling (baseline and 4 quartering rounds) for microbial contaminants using culturable media (MEA and GD18) and non-viable spore traps up and down streams of the return air HVAC treatment units in two barracks, two control barracks, and outdoor background locations to determine speciation and count for vegetative and non-vegetative of fungi. Additionally, HVAC parameters such as particle counts, air flow, temperature, relative humidity, CO₂ and percent fresh air are being measured for each HVAC air handling unit and branches are being measured. The final report and results were used for the selection of the preferred HVAC treatment system technology throughout the Army Engineering Command Southeast District.

U.S. Department of Homeland Security, United States Coast Guard (USCG), Integrated Support Command, Kodiak Air Station, AK (2008 – 2012) - Served as health and safety manager and lead industrial hygiene technical consultant for multiple task orders at the Kodiak, Alaska USCG station and USCG facilities in Seattle, WA. Projects completed included asbestos and lead based paint remediation projects of barracks, dining facilities, and other common areas; lead contaminated soils characterization and removal; installation of a vapor recovery extraction system in barracks/common area crawlspaces to mitigate groundwater chlorinated solvent contaminants; conducting IAQ study of occupied barracks and common areas to define military/patron risk; remediation and demolition of housing, surplus USCG facilities, and contaminated areas.

Prepared all hazardous materials abatement plans, oversight of CIH conducting asbestos Phase Contrast Microscopy (PCM for occupational) and Transmission Electron Microscopy (TEM for area clearance) air sampling, approved all asbestos and lead abatement plans, and write technical project reports summarizing hazardous materials abatement and clearance of common areas.

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Provided industrial hygiene technical consulting for the design, installation and commissioning and balancing of multi-building vapor intrusion remediation systems to place crawlspaces under negative pressure (with respect to occupied areas above) to eliminate ground water contaminant trichloroethylene (TCE) and perchloroethylene (PCE) vapors from entering barracks and common areas above. Conducted commissioning testing and balancing of all ventilation system components and all associated baseline and post-commissioning indoor air studies using EPA Method TO-15, Volatile organic compounds (VOCs). Prepared technical memorandums for USCG summarizing air study results and supported USCG with technical discussions with U.S. EPA Region 10 related to military occupant/patron risk and reoccupancy.

Technical Consultant – U.S. Department of Energy, Office of River Protection (ORP), Hanford Site, WA (2009) – Provided a technical compliance and Independent Government Cost Estimate (IGCE) evaluation and report of the Washington River Protection Solutions (WRPS) 10 CFR 850, Chronic Beryllium Disease Prevention Program (CBDPP): Final Rule implementation cost submittal to DOE Office of River Protection (ORP). This WRSP CBDPP compliance review and costs estimate was developed for the Hanford Tank Farm Beryllium Program to align all programmatic elements with the Hanford Sitewide CBDPP. IGCE was developed using engineering assessments, cost estimating relationships, vendor quotes, and technical basis for differing CBDPP element costs approaches. All assumptions and methodology were provided in the final report to DOE ORP.

U.S. Department of Homeland Security, United States Coast Guard, Integrated Support Command, USCG Kodiak Air Station, AK (2008-2012) - Served as health and safety manager and lead industrial hygiene technical consultant for multiple task orders at the USCG station Kodiak Island, Alaska. Projects completed included asbestos and lead based paint remediation projects of barracks, dining facilities, and other common areas. Prepared all hazardous materials abatement plans, oversight of CIH conducting asbestos phase contrast microscopy (PCM) occupational and transmission electron microscopy (TEM) clearance air sampling, approved all asbestos and lead abatement plans, and writing technical reports summarizing hazardous materials abatement and clearance of common areas. Provided industrial hygiene technical consulting for the design, installation and commissioning and balancing of multi-building vapor intrusion remediation systems to place crawlspaces under negative pressure (with respect to occupied areas above) to eliminate TCE and PCE vapors from entering barracks and common areas above. Conducted commissioning testing and balancing of all ventilation system components and all associated baseline and post-commissioning indoor air studies using EPA Method TO-15 for volatile organic compounds (VOCs). Prepared technical memorandums for USCG summarizing air study results and supported USCG with technical discussions with U.S. EPA Region 10 related to military occupant/patron risk.

Program Health and Safety Manager – Bureau of Land Management, Hazardous Materials Emergency Response Contracts (State of Utah and Idaho), statewide locations (2004 – 2012) - Served as the health and safety manager developing all programmatic H&S documents and approving all project-specific Health and Safety Plans, prescribed medical surveillance and monitoring, OSHA 29 CFR 1926 regulatory interpretations, and provided oversight for all emergency and planned remediation actions conducted under these state-wide contracts. Projects completed included emergency response to numerous spills and illegal dump sites. Planned

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responses have included reclamation of mine sites, illegal asbestos dump sites, contaminated structures and heavy metal mine tailings, and the safe demolition and closure of BLM structure and mine adits.

LANL Environmental Program Support – Department of Energy, Los Alamos National Laboratory, NM (2006-2010) - Provided technical project support services for numerous task orders issued under North Wind, Inc's master service contract with Los Alamos National Security, LLC (LANS). Prepared Environmental Program-Wide Environmental Safety and Health Plan and project specific Site Safety and Health Plans to meet the requirements of 10 CFR 851, Worker Safety and Health Program and 29 CFR 1926.65, HAZWOPER, respectively. Projects included, TA-21 ISS tritium component removal, LANL Baseline Industrial Hygiene Exposure Assessment, Industrial Hygiene Support for LANL Beryllium Project, TA-54 Performance Assessment and Low-Level Waste Operations, and LANL Master Drilling Contract.

Program Health and Safety Manager – Bureau of Land Management, Anvil Points Remediation Project, Rifle, CO (2008-2009) - Served as the health and safety manager and providing ongoing technical project support to removal of over 200,000 cubic yards of spent oil shale tailings and placement in a North Wind design/build repository. Prepared and approved Site-safety and health plans, developed area and personal air sampling strategies, directed medical surveillance, and provided engineering controls to minimize airborne and contact exposure to arsenic, lead and PAH contaminants associated with shale tailings as well as buried asbestos transite piping. Provided safety oversight and direction for mine adit closure and construction of 70,000 cubic yards of spent shale yard in an engineered repository.

Beryllium Decontamination and Demolition Project – Former American Beryllium Company, Sarasota, FL (2008) - Served as the project certified industrial hygienist (CIH) for Environmental Dimensions, Inc for the decontamination and demolition of portions of the former American Beryllium Company. This project was being conducted for Lockheed-Martin Corporation (LMC). Primary activities included reviewing/revising the project health and safety plan, developing exposure assessments for personnel conducting decontamination tasks, reviewing all personal and area air sampling data, interacting with the LMC and community advocates to communicate beryllium exposure and airborne controls and to facilitate understanding of the health controls to ensure no releases to the adjacent housing areas.

Program Health and Safety Manager, Sustainment, Restoration, and Modernization Task Order Contract (SATOC), U.S. Air Force Civil Engineering Support Agency, Worldwide (2005-2010) – Served as the Health and Safety Manager for all SATOC task orders. Prepared, reviewed and approved all site safety and health plans; subcontractor safety programs and plans, and H&S-related technical submittals; oversaw all H&S compliance; performed program H&S audits and inspections; supervised and provided technical guidance to all assigned field site safety officers; determined/oversaw medical surveillance requirements; served as subject matter expert for all H&S issues and compliance. Projects on-going or completed have included:

- Charleston AFB, SC – Runway/Taxiway Replacement and Upgrades- \$28M
- Malmstrom AFB, MT – Mechanical System Upgrades/Replacement - \$3M

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- Holloman AFB, NM – Various civil projects – \$6M
- Moody AFB – Lighting and ECIP Installation - \$1.9M.

Former Hanger 6 Site Characterization and Remediation, U.S. Army Corps of Engineers-Alaska District, Fort Wainwright, Alaska (2006-2007) - Mr. Miller served as the Health and Safety Manager and USACE Program Certified Industrial Hygienist performing various airborne volatile, semi-volatile, metals, and chemical warfare agent compounds sampling during soil disturbance, liner installation, and excavation of potentially contaminated soils at the former Hangar 6 site located at Fort Wainwright, Alaska. All work was conducted in Level B (supplied air/chemical resistant clothing) and included personal, perimeter (project fence line), soil gas, and direct reading air monitoring was conducted to gather chemical source and exposure data used to further evaluate potential construction worker reported symptoms who were excavating soil at the former Hangar 6 site in July 2006.

Area and personal air samples were collected and analyzed in accordance with selected National Institute of Occupational Safety and Health (NIOSH), Occupational Safety and Health Administration (OSHA), Environmental Protection Agency (EPA) Toxic Organic (TO) Compendium Method TO-15, and Laboratory Modified NIOSH methods.

Direct reading instruments (including a photoionization detector [PID] with an 11.7 eV lamp, flame ionization detector [FID], and MSA HAZMATCAD Plus [material chemical agent detector/chemical warfare agents] were calibrated and operated in accordance with the manufacturer's operating instructions. All air and soil gas sampling and direct reading monitoring of workers was performed by the Mr. Miller.

Beryllium Hazard Assessment - DOE National Engineering Technology Laboratory, Albany, OR (2006-2007) – Served as the project technical lead for the development of a beryllium hazard assessment for the DOE National Engineering Technology Laboratory Albany Research Facility located in Albany, OR. Scope of services include a comprehensive review of existing DOE NETL Albany CBDPP; review existing occupational exposure assessment process and procedures; review and assessment of the current baseline beryllium inventory; review and assessment of existing and ongoing Beryllium facility characterization including wipe, bulk and air sampling; statistical analysis of characterization and personal exposure data utilizing left-censored statically modeling approaches such as “R”; development of similar exposure groups and hazard ranking of these groups and specific operational areas; preparation of the written hazard assessment to provide a quantification of beryllium as a health and safety hazard as it relates to the NETL-Albany site and its operations; updating the existing NETL Albany CBDPP; and certification of the hazard assessment by a third party accredited/certified board.

Project Health & Safety Manager, Rocky Mountain Arsenal Projects, Denver, Co (2005-2007) – Served as Health and Safety Manager for multiple projects at the Rocky Mountain Arsenal site in Denver, CO under contract with Tetra Tech EC, Inc. Developed and approved all Task-specific Health and Safety Plans (THASPs), determined PPE and medical surveillance, personal and areas monitoring, site s controls, and other requirements for degraded chemical warfare agents and other hazardous materials requiring level D-Level B PPE. Representative projects have included well sampling, well installation and abandonment, at various Lime Basins project sites. Met OSHA

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VPP STAR requirement for all site activities.

LMAES Structures and Equipment Dismantlement and Disposal (Pit 9 Facilities D&D), DOE Idaho National Laboratory, ID (2005-2007) - Served as the Corporate Health and Safety Director and project ES&H oversight for the D&D of all LMAES structures (Retrieval Building, Remediation Treatment Facility, and all tanks, piping, and equipment located in and around the facilities) and equipment located within the Radioactive Waste Management Complex Pit 9 Subsurface Disposal and Administrative Areas. Demolition methods included deconstructing the retrieval building to relieve stress on structure; physical demolition of the concrete RTF using a combination of wrecking ball, tracked excavator with shears and processors; and shearing, sizing, and processing structures in the administrative area. Project involved significant hoisting and rigging of large (100') steel structural members and equipment as well as handling and hauling of demolition debris. Mr. Miller was responsible for writing the integrated Safety Management System (DEAR 970.5223-1, "Integration of Environment, Safety and Health into Work Planning and Execution"), Contractor Assurance System (DOE Order 226.1), Project Health and Safety Plan, and preparing North Wind prime contractor 10 CFR 851, Worker Safety and Health Program for DOE-ID approval. All contractually required plans were submitted and approved within contractually defined schedule.

Hurricane Damaged Facility Demolition and Reconstruction, U.S. Air Force AFCEE Worldwide Environmental Restoration and Construction (WERC), Various Gulf Coast Bases (2005-2007) - Served as the project health and safety manager for several projects totaling \$15M involving structure demolition and debris removal, reconstruction, and renovations at Hurlburt Field Air Base in Ft. Walton Beach, FL and Keesler Air Force Base (AFB), Biloxi, MS a result of Hurricanes Ivan, Dennis and Katrina. These projects were performed under NWI's US Air Force (USAF) WERC contract and NWI served as the general contractor. Mr. Miller has prepared the health and safety plans and specifications other for all projects that have included a wastewater treatment plant, marina, construction of a bridge, and renovation of the USAF Special Forces headquarters building. Additionally, Mr. Miller was onsite at Keesler AFB in Biloxi, MS within 10 days following Hurricane Katrina performing water damage assessments of multiple base facilities, assisted in the preparation of demolition workplans, prepared project health & Safety plans, and specifications for remediation contractors.

FWA-102 (Taku Garden) Site Characterization and Remediation, U.S. Army Corps of Engineers-Alaska District, Fort Wainwright, AK (2005-2006) - Served as the project health and safety manager and NWI Alaska Division Manager overseeing several Stryker Brigade projects at Ft. Wainwright located in Fairbanks, AK from April 2005 through December 2006. Projects included site characterization to delineate the extent and nature of PCB and other hazardous materials and unexploded ordinance (UXO) at a 52-acre construction site where legacy military hazardous materials were discovered through initial soils screening and excavation tasks. Mr. Miller has prepared all accident prevention plans, site safety and health plans, worker and area exposure monitoring plans, developed engineering controls to ensure no off-site releases to adjacent residential areas, and approved all munitions of concern (MEC)/UXO support plans. Project activities included surface geophysical studies (GPR, EM-31, EM-51); surface and subsurface soil sampling (direct push); installation of temporary and permanent water monitoring wells; field

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screening with polychlorinated biphenyl (PCB) assay kits; excavation of test pits and trenches; stockpile sorting for MEC/UXO and associated UXO and scrap disposal; handling, repacking and sampling of excavated waste drums; PCB contaminated soil handling and transportation; and comprehensive worker, resident, and area exposure monitoring. This scope of work also included two additional sites where UXO and known and unknown soil contaminants have been found. Project tasks were conducted in Level D, C and B personal protective equipment.

Hurricane Katrina Damage Assessments, Demolition and Reconstruction, U.S. Air Force Center for Environmental Excellence (AFCEE), Worldwide Environmental & Construction (WERC) Contract, Kessler AFB, MS (2005-2006) – Served as the health and safety manager for this \$12M+ project and task lead for all damage assessments. North Wind is providing turnkey damage assessments, demolition and reconstruction services of facilities and grounds in response to hurricane Katrina damage at Keesler Air Force Base (AFB), located in Biloxi, Mississippi under North Wind's the US Air Force Worldwide Environmental Restoration and Construction (WERC) contract. North Wind mobilized to the base within 3 days in response to a Government notice to proceed and conducted damaged assessments of several facilities and base grounds. Mr. Miller served as the lead for all water damage and mold assessments of occupied and abandoned structures performing visual inspections of all buildings, thermal imaging of building surfaces, taking moisture meter measurements of building materials, and delineating all materials to be remediation through each structure. He also prepared all asbestos and mold remediation specifications for all water damaged and mold affected building materials including containment requirements, remediation protocols, structural drying, and post-remediation assessment criteria. In addition, Mr. Miller prepared all project health and safety plans (HASP) and specifications for each scope of work that addressed all project activity hazards, hazard mitigation, and contingencies associated with facility demolition and reconstructions as well as grounds remediation. Demolition and reconstruction scope included the Keesler AFB marina and associated facilities, security building, contracting building, dormitories, NCO billeting building, debris and stump removal and repair/replacement of various docks. He oversees all safety and health officers assigned to the project. *All project work was completed without a single recordable or lost time injury.*

U.S. Army Corps of Engineers, Nationwide Remediation Services (2004-2008) – Prepared all health and safety plans and served as Program CIH for North Wind U.S. Army Corps of Engineering projects in the Sacramento, Savannah, Omaha, Mobile, and Alaska Districts. Projects include remediation of contaminated release sites; installation, operations and maintenance of vapor extraction systems; construction projects; and investigation of unexploded ordinance/ordinance and explosive (UXO/OE) sites including remote USACE formerly used defense sites (FUDS) located on Alaskan Aleutian Islands and St. Lawrence Island.

In Situ TRU Waste Delineation and Waste Removal at Hanford 618-10/618-11 Burial Grounds, DOE Hanford, WA (2004-2007) - Served as Project Health and Safety Manager – Major Project Lead for DOE-HQ Environmental Management, Technology Development and Deployment Program In Situ TRU Waste Delineation and Waste Removal at DOE Hanford, Washington 618-10/618-11 Burial Grounds. The project goal is to identify, develop, and demonstrate technologies to support accelerated Hanford site remediation. DOE fabricated fuel for the Hanford Site nuclear production reactors in the 300 Area that produced large volumes of many types of radioactive wastes,

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including transuranic (TRU) wastes that were disposed on in trenches and vertical pipe units (VPUs). North Wind has developed VPU retrieval technology that is being demonstrated as a proof-of-principal in a cold testing facility prior to applying this technology to the 618-10/18-11 Hanford Area. Work to date has included preparation of all work plans, health and safety plans, test plans, and procedures necessary to conduct full scale cold testing of a large diameter casing driven by a pile driver to over core and retrieve the simulated VPU. In addition, development and field testing of surface geophysical technology and downhole nuclear logging methods are being tested to verify the technology for hot operations. The final project Phase II task will be to retrieve radioactive materials containing VPU from the Hanford 618-10/618-11 area.

Los Alamos National Laboratory, DOE TA-73 Airport Landfill Closure Project, Los Alamos, NM (2004-2006) – Prepared comprehensive safety and health plan for Los Alamos National Laboratory TA-73 airport landfill RD/RA closure project. Project included conducting large scale excavation of closed landfill, retrieving debris and waste from a steep slope located approximately 100-ft above the Pueblo Canyon valley with a drag line and excavation equipment. Final fill and grading cover requirements will meet voluntary consent order RCRA Subtitle C landfill requirements. The entire landfill area was regraded. Additionally, all heavy equipment operations were conducted adjacent to the active Los Alamos County Airport runway. Health and safety procedures and plans have been prepared to be compliant with DOE O 441, 29 CFR 1910.120 HAZWOPER, 29 CFR 1926, Construction, and relevant FAA requirements.

Kadlec Hospital DOE Building 748 Decontamination and Decommissioning Project, DOE Richland, WA (2004-2005) - Served as the Project Health and Safety Manager – Major Project Lead for D&D of the Kadlec Medical Center DOE Building 748 (Emergency Decontamination Facility) located adjacent to the Kadlec Medical Center in Richland, Washington. Contract scope included preparation of all work plans, demolition plan, health and safety plan, and final characterization sampling and analysis plan (prepared in accordance Multi-Agency Radiation Survey and Site Investigation Manual [MARSSIM]); removal and decontamination of radiologically contaminated equipment and surfaces to meet DOE Order 5400.5 (Radiation Protection of the Public and the Environment) release requirements; characterization, removal, and packaging for transportation of hazardous materials and waste (lead, mercury, PCBs, creosote, tritium); and abatement of friable and nonfriable asbestos containing building materials. North Wind used a track excavator equipped with various buckets, specialized shears, and processors to demolish and size above grade concrete structure and piping, excavate of buried sumps, tanks, ductwork and remove underlying contaminated soils. Building 748 facility was located within 75 feet from the hospital surgical suite and is adjacent to the emergency entrance. All demolition tasks were completed with minimal impact to the ongoing Kadlec Medical Center operations.

Operable Unit 1-10 (V-Tanks) and CERCLA Soil Area Decontamination and Decommissioning Project, Idaho National Engineering and Environmental Laboratory, ID (2004) - Prepared all health and safety documentation including site-specific health and safety plans (HASP), job safety analysis (JSA), technical procedures, and hazard screening checklists for this D&D project that consisted of removal, transfer, and treatment of PCB contaminated radioactive liquid and sludges from underground tanks, piping systems, and vaults located at Test Area North at the Idaho National Engineering and Environmental Laboratory (INEEL).

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U.S. Army Yuma Proving Ground, Yuma, AZ (2004) – Provided all health and safety oversight for the U.S. Army Yuma Proving Ground investigation and remediation of 600-acre range area. The area was used for range practice, demolition activities, open detonation, and open burning of explosive ordinance. Unexploded ordinance (UXO) consisted of live rounds, submunitions, anti-personnel mines, and ordinance and explosives elements were nitrocellulose, TNT, RDX, and other nitrogen-based explosives.

SWSD TRU Waste Container Retrieval, DOE Hanford, WA (2004) – Provided procedure development, technical approach, and safety support services to Fluor Hanford, Inc. management in support of transuranic (TRU) container retrieval operations at the Hanford Solid Waste Storage and Disposal (SWSD) area. Services include review and revision of operating procedures for TRU container retrieval operations, container handling, and special handling for deformed, damaged, and breached containers. Included safety approach and contingencies for container handling and retrieval.

White Sand Missile Range (WSMR) Operational and Safety Services, Las Cruces, NM (2004) – Provided safety and health technical services to BAE Systems, Inc at the DOD White Sand Missile Range (WSMR). Services include reviewing and revising the site-wide health and safety documentation, preparing multimedia inspection criteria, conducting compliance safety and health audits of operational, support, and tenant facilities. Continued periodic support of the High Energy Laser Test Facility (HELSTF) with respect to operational safety issues is also being provided.

President/Principal Technical Consultant

Vortex Enterprises, Inc

Idaho Falls, Idaho

December 1998 – February 2004

Wrote and reviewed safety analysis reports, hazards assessments, health and safety plans, and other related safety programs for government and commercial clients. Managed and supervised industrial hygiene (IH), safety, and health physics personnel and provides project management, planning, regulatory support, and oversight to numerous Department of Energy (DOE) environmental restoration, waste management, construction, and decontamination & decommissioning (D&D) projects. Provided expertise in health, safety, and radiological engineering and hazard controls. The DOE project listed above including onsite investigations, evaluations, and risk assessment studies. Conducted hazard/OSHA 1910 (General Industry) and 1926 (Construction) regulatory compliance assessments and develop strategies/products to resolve deficiencies and enhance programs. Served as the project manager, field team leader, and health and safety officer for drilling, remedial investigations, removal actions, construction, site investigations and D&D projects. Mr. Miller provided project management and direct nuclear operations, industrial hygiene, safety, environmental compliance, and radiological field oversight for remedial investigation/feasibility study (RI/FS), remedial design/remedial action (RD/RA), and radiological D&D projects. In addition to DOE projects, he provided health and safety services for construction, private industry remediation projects, and water damage and microbial investigations.

Water Damage and Microbial Assessments and Investigations (1998-2004) - Specialty project investigative work conducting water damage and microbial assessments for residential,

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commercial, insurance company, hotel and medical facility clients. Conducted investigative assessments utilizing physical inspection methods such as moisture meters, infrared thermal imaging camera, indoor air quality (IAQ) parameter meters, laboratory air samples for viable and non-viable fungi, bioaerosol sampling, and particle counters. Prepared assessment reports that included detailed remediation specifications and protocols in accordance with industry standards and conducted post-remediation assessments to ensure all remediation protocol requirements were met. Served as water damage and microbial consulting expert, wrote expert reports and was a speaker at the 2004 National Mold Symposium in Las Vegas, NV.

Bechtel BWXT Idaho, LLC (BBWI) Management and Technical Services (1998 – 2004) – Provided technical and management support services to Bechtel BWXT Idaho, LLC (BBWI) at the Department of Energy Idaho National Engineering and Environmental Laboratory (INEEL). Mr. Miller's support included serving as the project field team leader (FTL) and health and safety officer (HSO); writing Health and Safety Plans (HASP's), detailed technical procedures, system operability (SO) test procedures, and operational test plans. Ensuring project compliance with DOE Order 5480.19 Conduct of Operations, OSHA Voluntary Protection Program (VPP), Integrated Safety Management Systems (ISMS), nuclear facility operational training requirements, and related safety analysis documents. Served as the FTL for numerous site investigation, remediation, technology development/deployment, and testing at transuranic (TRU) mixed waste subsurface disposal areas. Participated as member of technology design team and lead field activities for all BBWI/DOE readiness assessments for start-up and implementation of new field Category 2 nuclear operations as described below.

OU 7-10 Glovebox Excavator Method Project (2003-2004) – \$90 million dollar project involved remote excavation and retrieval of TRU mixed Rocky Flats Plant waste drums and debris in OU 7-10 (Pit 9) located in the Subsurface Disposal Area (SDA) at the Radioactive Waste Management Complex (RWMC). Provided key health, safety and nuclear operational expertise including writing the comprehensive operational health and safety plan; evaluation of engineering controls; development and implementation of a test plans for cold and hot (radiological) operations, detailed operating and SO test procedures for a full-scale excavation mockup facility and OU 7-10 "hot" operations at the Pit 9 category 2 nuclear facility; wrote numerous facility system startup procedures (ventilation system, dust suppression system, air emissions system, and CCTV system); preparing all job hazard analysis for cold and hot operations and incorporated hazard mitigation steps into operating procedures; drafted all decontamination and dismantlement procedures (retrieval confinement structure (RCS) Fogging, RCS and packaging glovebox system (PGS) Housekeeping, Grouting the Waste Pit, RCS and PGS Characterization, Immobilizing Residual Contamination, and Decontamination of the RCS and PGS); and developed emergency plan contingencies for this state-of-the-art remote TRU mixed waste retrieval facility. The Glovebox Excavator Method Project was successfully completed eight months ahead of the enforceable regulatory milestone date.

Operable Unit 7-13/14 Integrated Probing Project (IPP) (2002-2004) - Project involved sonic drilling, sampling, and retrieval of TRU mixed waste samples buried in pits and trenches within the Subsurface Disposal Area (SDA) at Radioactive Waste Management Complex (RWMC). Mr. Miller prepared comprehensive Health and Safety Plans (HASP's) for cold tests and all OU 7-13/14 IPP

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“hot” (buried radioactive material areas) operational activities. Served on design team developing specialized exposure monitoring, engineering controls (HEPA drill string enclosure, and glove bags), and work practices designed to mitigate TRU mixed waste hazards. Presented health, safety, and exposure mitigation strategies to state of Idaho, DOE and EPA Region 10 regulators. Prepared detailed technical operating procedures and served as the Field Team Leader (FTL) for first-of-a-kind sonic drill rig installation of probes (lysimeters, tensiometers, vapor ports, visual, and moisture) within the TRU waste pits to obtain data related to radiological and organic contaminants and source term migration and transport. Served as the FTL for nuclear logging of probes (radioactive Cf source and neutron generator), core drilling and retrieval, glovebag sampling of installed instrumented probes (including developing the radionuclide source term for shipping of the leachate samples), extensive surface geophysical studies, and diffraction tomography. Additionally served on engineering design team developing the second-generation instrumented probes. All document submittals for regulatory (DOE-ID/HQ, EPA-Region 10, and IDEQ) and project reviews were ahead of the project schedule and within or below the contractually defined budget.

Mr. Miller provided continuous technical and management services to Bechtel BWXT, Lockheed-Martin Idaho Technology Company and Parsons Infrastructure and Technology Group for the Operable Unit 7-10 (Pit 9) and Operable Unit 7-13/14 IPP projects 1998 - 2004.

Advance Mixed Waste Treatment Project (AMWTP), British Nuclear Fuels Ltd, DOE Idaho National Engineering and Environmental Laboratory, ID (2000-2001) – Provided industrial hygiene expertise to British Nuclear Fuels Ltd. (BNFL), Inc. for the \$400 million dollar Advance Mixed Waste Treatment Project (AMWTP) located at the DOE Idaho National Laboratory (INL). Served as the consulting CIH for industrial safety and hygiene programs during the retrieval, treatment, and disposal of more than 65,000 cubic meters of transuranic (TRU) mixed waste at this CERCLA site. Project activities include large scale excavation of clean overburden soils, retrieval of 55-gallon drum, boxes, and other TRU stacked waste containers, chemical and radiological screening and assaying of each container, transportation to processing facility, and size reduction (compaction) of containers for final shipment to repository. Focus areas of technical support included development of the personnel and area exposure assessments; sampling strategy for beryllium, heavy metals, silica, physical hazards; and oversight of the chronic beryllium disease prevention program (10 CFR 850). Additional support and oversight was provided in the areas of respiratory protection, atmospheric monitoring and testing, statistical analysis of exposure monitoring data, and supervision of staff industrial hygienists. Provided on-site management support services during DOE HQ Operational Readiness Review (ORR) and follow-up DOE-HQ ORR verification to resolve technical issues related to exposure assessments.

Industrial Hygiene Laboratory Audit (2000) - Conducted comprehensive laboratory audit of DataChem Laboratories Industrial Hygiene laboratory facilities and procedures (Salt Lake City, UT Lab) for BNFL, Inc. Prepared audit criteria based on AIHA LQAP; DataChem SOPs, IHQAP, QAPP, 29 CFR 1910.1450, 10 CFR 20, and previous audit findings. Generated detailed summary report with findings, conditions adverse to quality, and recommendations.

In-Situ Grouting (ISG) Project Comprehensive Sampling (2002) – Conducted all geotechnical and chemical analysis sampling for the In-Situ Grouting (ISG) project demonstration at the Idaho

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Engineering and Environmental Laboratory (INEEL) Radioactive Waste Management Complex (RWMC). Sampling included all geotechnical cylinder (compressive strength) and rare earth tracer samples associated with the high-pressure jet grouting of like-TRU waste forms at the RWMC study area. Samples were collected from the drill string, thrust blocks, drill string decontamination liquid, waste streams and high-volume air samplers placed around the high-pressure jet grouting rig to determine the extent and nature of potential TRU contamination via the rare earth tracers. Following a high-pressure grout pump failure, participated in the DOE Type B investigation to determine the root cause and contributing causes of pump failure focusing on the safety aspects.

INEEL CERCLA Disposal Facility Construction Health and Safety (1999) - Prepared Health and Safety Plan for the INEEL CERCLA Disposal Facility (ICDF) Operations. The HASP presented the systematic approach to identify and control ICDF operational hazards related to facility processes in accordance with 29 CFR 1910.120 (HAZWOPER) Treatment, Storage, and Disposal facility requirements.

(Private Client) Highly Flammable Material Sort, Segregate, Repackage, and Disposal Project (1999) - Conducted sorting, segregating, repackaging, and destructive preparation, and transportation activities for over 15,000 55-gallon drums of highly flammable nitrocellulose product at private client facility. Prepared a Site-Specific Safety and Health Plan, conducted detailed project-specific hazard-based training for workers, established engineering controls, personal protective equipment requirements, and monitoring requirements to ensure worker protection during handling, storage transport, and sizing operations.

DOE Pantex Plant Burning Ground Characterization and Remediation Project (2003) - Served as the decontamination and decommissioning (D&D) radiological task manager and health and safety officer for the remediation of high explosive and radiologically contaminated soil area at the DOE Pantex Plant, Burning Grounds Site, Amarillo, TX. Provided all radiological services including conducting in-progress, post excavation, and confirmation radiological surveys. Conducted all confirmation sampling in accordance with Multi-Agency Radiation Survey and Site Investigation Manual (MARSIMS) requirements. Approximately 300 yards of contaminated soil were excavated and loaded in roll-off bins for disposal within an expedited schedule resulting in early site closure.

In-Situ Grouting and In-Situ Vitrification Demonstration Projects (2002) – Prepared health and safety plans for the Idaho National Engineering and Environmental Laboratory (INEEL) In Situ Grouting (ISG) and In-Situ Vitrification (ISV) project demonstrations at the Radioactive Waste Management Complex (RWMC).

DOE Argonne West Cask Tunnel D&D Project (1999) - Developed industrial hygiene program and performed comprehensive air sampling and sound level evaluation in support of the Cask Tunnel Decontamination & Decommissioning (D&D) project located at the Idaho National Engineering and Environmental Laboratory (INEEL), Argonne West reactor facility. Air sampling was conducted for beryllium and respirable silica dusts and noise dosimetry/octave band analysis was performed during concrete and rock demolition tasks being conducted with a remotely operated hydraulic ram (Rubble Maker) to evaluate D&D worker exposures.

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(Commercial Client) Glovebox Fabrication Lead Brick Exposure Assessment (2002) - Performed air sampling and engineering control evaluation of glovebox lead brick cutting and fabrication facility. Compliance to OSHA Lead Standard (29 CFR 1910.1025) and respiratory protection standard (29 CFR 1910.134) was evaluated and ventilation system efficiency examined. Submitted comprehensive report with recommendation for improving engineering controls, work practices, and ventilation efficiency to reduce worker lead exposures in accordance with OSHA Lead Standard.

Yuma Proving Ground Open Burn/Open Detonation Project (1999) - Wrote comprehensive health and safety plan (HASP) for the OB/OD Burn Pad Soil Excavation project at the Department of the Army, Yuma Proving Ground (YPG), Yuma, AZ. Project involved excavation and characterization of soils areas contaminated with residue from explosives (TNT/high explosives) and propellant burning operations. This HASP included a comprehensive lead medical surveillance program and other specialized training requirements associated with YPG explosive site operations.

DOE INEEL Construction Subcontractor Services (1998-2003) - Provided full range of industrial hygiene and safety consulting services to INEEL construction subcontractors conducting facility upgrades, new facility construction, and D&D activities. Expertise in 29 CFR 1910 (General Industry) and 29 CFR 1926 (Construction) regulatory requirements provided. Additional services included, conducting industrial hygiene exposure assessments, serving as competent person for excavation, consulting on OSHA substance-specific standards, and conducting full-period exposure monitoring for airborne contaminants such as metals, silica, asphalt fumes/emission constituents, and other organic compounds in compliance with National Institute for Occupational Health and Safety (NIOSH) analytical methods.

Expert Consultant and Witness Services (200-2004) - Provided expert consultant and witness industrial hygiene services and testimony for attorneys regarding exposure assessment and other health and safety related cases.

Corporate Health and Safety Director
S.M. Stoller Corporation
Boulder, CO - Idaho Falls, ID Office
February 1995 – December 1998

Wrote all corporate health, safety, and radiological programs; wrote and implemented health and safety plans for remediation and decontamination and decommissioning (D&D) projects; prepared technical proposals/costs/teaming agreements; and presented technical approach for Stoller proposal team during formal government contracting proposal oral presentations. Served as Corporate H&S technical manager for projects and offices throughout the U.S. and represented Stoller at national remediation and D&D conferences. While serving as the Corporate Health and Safety Director, Stoller had zero recordable injuries/illnesses and no lost time injuries even while conducting complex large-scale excavation, remediation, and radiological D&D projects.

DOE Pantex Plant Remediation and Health and Safety Services (1997-1998) - Served as the environmental, Safety and health (ES&H) manager for two large scale environmental remediation

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projects at the DOE Pantex Plant. Health and Safety Plans (HASPs) were prepared for both the Accelerated Clean-up Activities (ACA) of chemically contaminated sites and Phase III of the decontamination and decommissioning (D&D) of Firing Site 5 (depleted uranium contaminated site and structures) projects. Mr. Miller prepared submittal to meet all technical requirements for large scale excavations, radiological D&D, high explosives handling, and other hazards analysis for approval by Pantex Environmental Restoration (ER) technical representatives. Served as the task manager for much of the Firing Site 5 characterization and D&D including, conducting U.S. Nuclear Regulatory Commission (NUREG) radiological surveys, excavation of contaminated soils, and demolition of existing structures to meet unrestricted release criteria of DOE Order 5400.5 and Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM) site closure requirements.

DOE INEEL Investigative-Derived Mixed Waste Sampling, Sorting, and Repackaging Project (1996-1997) - Served as subcontractor project manager (PM) and FTL for waste management facilities investigative-derived waste (IDW) sampling and repackaging at the Idaho National Engineering and Environmental Laboratory (INEEL). Project involved characterization, sorting, lab packaging of low-level and mixed radioactive waste. Work was performed in airborne radioactivity, radiation and contamination areas in Level C and B personal protective and anticontamination equipment. More than 200 waste streams and 3,000 samples were sorted, treated, repackaged, and lab packed for shipment to on/off-site TSD facilities for further treatment and/or disposal. No contamination migration or events occurred due to excellent radiological control work practices and rigorous implementation of conduct of operations.

DOE INEEL Waste Management Services (1996) - Served as subcontractor PM and FTL for several waste operations facility mixed waste projects. Projects included characterization of the ash following a critical burn campaign at the Idaho National Engineering and Environmental Laboratory (INEEL) Waste Experimental Reduction Facility (WERF) and “decompaction” of a WERF low-level waste bin to locate and remove a mixed waste container and conduct characterization of the surrounding waste. Tasks were identified as “critical” by the contractor and DOE facility managers based on meeting regulatory milestones and involved direct regulator participation. These tasks were conducted in Level B (supplied air) anticontamination personal protective equipment inside of high radiological contamination areas and airborne radioactivity areas. All tasks were successfully accomplished in a timely manner with no contamination migration. This allowed WERF to restart nuclear operations with minimal down-time and meet EPA regulatory milestones.

DOE Rocky Flats Plant T-1 Trench Remediation Project (1995) - Provided technical support to Stoller team performing Level B protective equipment remediation and repackaging activities at T-1 Trench at the DOE Rocky Flats Plant, Golden, Colorado.

DOE Pantex Plant Firing Site 5 Radiological Characterization and D&D Project (1997-1998) - Served as the Health and Safety Manager and assistant Project Manager for the DOE Pantex, Firing Site 5, Depleted Uranium (DU) cleanup project to meet DOE Order 5400.5 (Radiation Protection of the Public and the Environment) and Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM) site closure requirements. Wrote several health and safety plans for different phases of this project, developed job hazard analysis, and provided health, safety, and radiological oversight for all project tasks. This project required obtaining more than 250,000 radiological

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surface readings with board mounted radiation detectors and collecting of more than 1,000 surface and subsurface soil samples for analysis. Once the site was fully characterized, over 13,000 cubic feet of DU radiologically contaminated soils and fragments were excavated with trackhoes, the two remaining FS-5 structures (shot pad and concrete bunker) were surveyed, contaminated concrete scabbled (18 ton shot pad removed), and the remaining clean bunker structure demolished in place.

DOE Pantex Plan High Explosive/Radiation Remediation Project (1997) - Served as the Health Safety Manager for the Pantex High Explosive/Radiation (HE/RAD) sites remediation project. Wrote all health and safety required documents including, health and safety plan, task hazard analysis, high explosive fragment handling procedures, decontamination plans, and site-specific training requirements. Project involved remediation of soils contaminated with high explosives (HDX, RDX, TNB and TNT) and heavy metals.

DOE Pantex Plant Ditches ICM Remediation Project (1997) - Served as the Health and Safety Manager for the Pantex Ditches Interim Corrective Measures (ICM) remediation project. Wrote the health and safety plan, job hazard analysis, and related documentation for the work plan. More than 5,500 surface and subsurface soil samples were collected and over 22,000 separate analysis conducted by the on-site mobile analytical laboratory. Following contamination delineation, more than 400,000 cubic feet of contaminated soil was excavated at depths to 30+ feet and hauled from the sites for disposal at a hazardous waste landfill.

DOE INEEL Legacy Waste Management Project (1996-1997) - Served as a principal participant in the dispositioning of more than 1,845 legacy samples (in approximately four months) and 147,747 pounds of bulk legacy waste to the appropriate Idaho National Engineering and Environmental Laboratory (INEEL) or off-site EPA-permitted treatment, storage and disposal facility as part of the technical team providing support to Lockheed-Martin's Environmental Restoration Department. Project included providing turn-key services to characterize, sort, and package waste and samples; waste management; writing hazardous waste determinations; entering all shipping data into the INEEL IWITS shipping system; coordinating the shipment of legacy samples and waste; dispositioned samples back to the area of contamination; and creating close-out files to document each sample of waste "Lot" disposition action to meet EPA regulatory requirements. Additionally, performed solidification of low-level waste streams using cement to stabilization prior to shipment to the INEEL Radioactive Waste Management Complex (RWMC) facility in accordance with INEEL radiological waste acceptance criteria requirements.

DOE EINEEL CFA OU 4-17 and OU 4-42 Site Characterization and Remediation Project (1996) - Served as the subcontractor project manager and field team leader (FTL) providing technical support services to Parsons Infrastructure and Technologies Group during the removal actions at the CFA Operable Unit (OU) 4-17/47 and OU 4-42 petroleum contaminated sites. Services included: conducting field screening of contaminated soils using PetroFlag™ immunoassay screening kits to provide "real time" evaluation of cleanup activities, writing Sampling and Analysis Plan document and revisions to meet changing field requirements, and preserving, packaging, shipping all samples to meet 48-hour analysis requirements. Additionally, collected over 100 laboratory confirmation samples ensure excavation of contaminated soil met the risk-based corrective action (RBCA) goals.

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DOE INEEL WAG 4 Comprehensive Remedial Investigation/Feasibility Study Project - INEEL Served as the subcontractor Project Manager (PM) and field team leader (FTL) for Waste Area Group (WAG) 4 comprehensive Remedial Investigation/Feasibility Study (RI/FS) activity. This project included sampling of over 600 surface and subsurface soil locations using hand augering, drilling, and trenching methods to meet RI/FS data requirements. Analysis for hazardous and radiological analytes was conducted. Responsible for all aspects of drilling subcontracting, sample collection, packaging and shipment of analytical samples. Although the scope of work was increased by approximately 20% midway through the project, the project was still completed two weeks ahead of schedule and under the original budget.

DOE INEEL CFA-04 Mercury Retort Sampling Project (1996) - Provided technical support to Parsons Infrastructure during the pumping and transport of 18,000 gallons of mercury contaminated water and sludge at the Central Facilities CFA-04 Mercury Retort site and direct field sampling support for characterization of Waste Area Group 4 Time Critical Removal Action at the Operable Units CFA-13, CFA-15, CFA-42, and CFA-47 sites at the Idaho National Engineering and Environmental Laboratory.

DOE INEEL In-situ Grouting Soil Isolation Project (1995) - Served as the subcontractor project manager providing sampling and analysis support, laboratory statement of work development, waste management, health and safety support, and training services for the Soil Isolation Project (Cold Test Pit and Acid Pit) at the Idaho National Engineering and Environmental Laboratory (INEEL). A patented in-situ stabilization technology was used to inject high-pressure grout in buried waste to create a permanent stabilization form for radioactive and hazardous (mixed) waste located in the RWMC Acid Pit. Mr. Miller collected all contamination control samples including - high volume air samples, swipe samples of the drill string and thrust block surfaces, grout returns, project waste streams, decontamination water, and HEPA filter system. All samples were collected, preserved, packaged and shipped within the analytical holding times and shipped to one on-site and five off-site laboratories.

DOE INEEL RWMC Acid Pit Sonic Drilling Project (1995) - Served as subcontract project manager for sonic drilling and coring of a Tech™ grout stabilized subsurface monolith at the Idaho National Engineering and Environmental Laboratory (INEEL) Acid Pit (Operable Unit 7-13/14). The "Soilcrete" monolith was created using a high-pressure jet grout injection method to stabilized subsurface metal, organic and radiological contaminants. Responsible for conducting all core logging, drill steel decontamination, characterization and subsampling of cores, packaging and shipping analytical samples, and waste management tasks.

Technical Leader, Industrial Hygiene

Lockheed-Martin Idaho Technologies Company (LMITCO)

Department of Energy, Idaho National Engineering and Environmental Laboratory

Idaho Falls, Idaho

October 1994 -February 1995

Directed staff of six industrial hygienists and three health and safety technicians supporting environmental restoration, waste management, and decontamination and decommissioning (D&D) activities at the Idaho National Engineering and Environmental Laboratory (INEEL). Managed department industrial hygiene programs and budgets, served as cognizant industrial hygiene

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professional on all document review committees, LMITCO subject matter expert for 29 CFR 1910.120, Hazardous Waste Operations and Emergency Response (HAZWOPER) regulation ensuring federal and DOE regulatory compliance. Represented the INEEL at national hazardous waste conferences, DOE-HQ working groups, technical issue teams, and HAZWOPER committees. Served on ad hoc environmental safety and health committees, that developed “fast track” health and safety procedures as requested by executive management.

Technical Leader, Industrial Hygiene**EG&G Idaho, Inc.****Department of Energy, Idaho National Engineering Laboratory Idaho Falls, Idaho****February 1994 -October 1994**

Same position description as with Lockheed-Martin Idaho Technologies Company with the following additions: Drafted first model (template) Idaho National Engineering Laboratory (INEL) environmental restoration (ER) health and safety plan (HASP) to meet 29 CFR 1910.120, HAZWOPER regulatory requirements that was used by the ER Group and subcontractors for all INEL Remedial Investigation/Feasibility Study (RI/FS), Remedial Design/Remedial Action (RD/RA), and decontamination and decommissioning (D&D) projects. Developed and delivered ER and D&D hazard-specific HAZWOPER training course to workers, field team leaders, and project managers. Participated on DOE-Wide HQ Chemical Vulnerability Assessment evaluating chemical vulnerabilities throughout the DOE complex. Wrote sections of final report and recommendation for mitigating potential chemical vulnerabilities throughout the DOE complex.

Senior Engineer**EG&G Idaho, Inc.****Environmental Restoration & Waste Management Department (ER&WM)****Department of Energy, Idaho National Engineering Laboratory****March 1993 - February 1994****Idaho Falls, Idaho**

Recognized, evaluated, and controlled all physical, chemical, and biological hazards resulting from environmental restoration (ER) and decontamination and decommissioning (D&D) projects at Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) sites on the Idaho National Engineering Laboratory. Conducted risk assessments of mixed hazardous waste (chemical and radiological) sites, designed engineering controls and process modifications to minimize worker exposures, determined all personal protective equipment requirements for project tasks, developed strategies for state-of-the-art personnel and area monitoring in mixed waste environments, authored and served as technical reviewer and editor for all project health and safety documentation, and approved work control documents (safe work permits, hot work permits, construction permits, etc.). Mr. Miller directly supported D&D projects at the following facilities: Test Area North (TAN) Operable Units 1-04, 1-05, 1-10, Radioactive Waste Management Complex (RWMC), Test Reactor Area (TRA), Chemical Processing Plant (CCP), Auxiliary Reactor Area (ARA) I/II/III, Special Power Excursion Reactor Test (SPERT) IV, Power Burst Facility (PBF), and Waste Area Group (WAG) 10 site-wide projects.

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Director, Technical Services, Bioenvironmental Engineering
United States Air Force (USAF), 509th Operations Group, 509th Medical Group
Whiteman Air Force Base, Missouri
January 1992 -March 1993

B-2 Stealth Bomber Industrial Hygiene Director - As the 509 B-2 Stealth Bomber Program industrial hygiene director, reviewed Title I/II facility designs and conducted comprehensive occupational health evaluations of 20 new aircraft maintenance and support facilities housing 1,400 workers. Performed risk assessments on all hazardous processes and materials including unique B-2 bomber “skin” composite material exposures and attended USAF toxicological workshops on stealth technology exposures and thermo-degeneration (fire) constituents. Developed all new aircraft composite exposure monitoring programs and provided medical surveillance recommendations to Aerospace Medicine Commander and ensured implementation of new engineering controls.

Base Radiation Safety Officer - As the base radiation safety officer, controlled all aspects of comprehensive base radiological protection program in accordance with U.S. Air Force and Nuclear Regulatory Commission (NRC) requirements. Conducted ionizing and non-ionizing radiation surveys (industrial, medical x-ray, special nuclear material, sealed sources, radar, and laser) and ensured compliance with two NRC radioactive material licenses. Established and managed base radiation protection program requirements (ALARA goals, training, etc), and monitored whole body, extremity, and neutron doses of more than 50 radiation workers in 7 exposure areas through base dosimetry program. Briefed 509th Operations Group Base Command on Radiation Safety Program.

Special Projects Manager - Served as Bioenvironmental Engineering unit advisor and trainer for industrial hygiene technical matters. Conducted risk assessments to identify teratogenic reproductive hazards for all pregnant workers on base and provided duty restrictions to attending physician. Directed all high-profile occupational incident and illness investigations (radon, radiation exposures, asbestos, indoor air quality, surgical suite HVAC problems, tuberculosis quarantines, bioaerosol issues, and carcinogenic aircraft composite constituent studies). Worked with Chief of Aerospace Medicine to determine occupational exposure medical surveillance and monitoring requirements.

Director, Industrial Hygiene Section, Bioenvironmental Engineering
United States Air Force, 509th Operations Group, 509th Medical Group
Whiteman Air Force Base, Missouri
March 1991 - January 1992

Planned, implemented, and monitored adequacy of comprehensive occupational health program supporting 90 industrial facilities, 40 missile launch sites, and 2 reserve bases. Scheduled and assigned workload for five industrial hygiene technicians. Coordinated all environmental and special projects studies (air, soil, water, noise, radiation, asbestos, ventilation). Managed several base programs including, respiratory protection, hazard communication, confined space, and radiation dosimetry. Served with occupational physician on Occupational Health Exposure Committee, which established medical surveillance and biological monitoring requirements for more than 3,000 workers. Reviewed plans and hazardous materials requests for environmental

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and health directives compliance, determined hazard codes for carcinogen product usage, handling and disposal requirements, evaluated engineering controls, and recommended personal and area exposures.

Manager, Industrial Hygiene Section, Bioenvironmental Engineering
United States Air Force, 52nd Tactical Fighter Wing, 52nd Aerospace Medical Group
Spangdahlem Air Force Base, (West) Germany
November 1987 - March 1991

Industrial Hygiene Section Manager - Scheduled and prioritized industrial hygiene evaluations and special projects for 130 industrial facilities and 3 support bases. Assigned workload to four industrial hygiene technicians and managed human and technical resources to ensure its timely completion. Conducted special surveys and incident and accident investigations and wrote summary reports. Directed training and prepared technical guidance for implementation of base occupational exposure programs (asbestos, hazard communication, risk assessments, respiratory protection). Tracked on-site and off-site environmental monitoring status on database and determined sampling priorities, strategies, and appropriate methods. Researched toxicology of highly hazardous products and substituted less toxic products for use. Served on base disaster response team (aircraft and weapon accidents, chemical and fuel spills, and fire incidents). Negotiated with local German union representatives regarding use of protective equipment and exposure monitoring requirements for base construction trades activities.

Industrial Hygienist - Conducted baseline, annual, and special occupational health evaluations of aircraft fabrication, maintenance, launch, weapons, radar, communication, vehicle maintenance, allied construction trades, welding, and medical center facilities. Collected exposure data, updated workplace and medical exposure casefiles. Prepared occupational workplace summary reports for the 52nd Medical Group flight surgeon and base medical director addressing engineering controls, protective equipment adequacy, chemical exposure risk assessments, ergonomics, and overall USAF, OSHA, and EPA directive compliance.

Emergency Response Team - Served as member of base emergency response team, which advised on-scene commander on establishing toxic corridors, health hazards, required protective equipment, and environmental impact from spills, aircraft accidents, weapon incidents, and special nuclear material loss or releases including determining radiation stay times, tracking radiological doses, and measuring fallout to establish radiation and contamination boundaries.

Wartime Duties - Wartime duties consisted of providing all nuclear, biological, and chemical (NBC) exposure monitoring to base commander and medical director during North Atlantic Treaty Organization (NATO) and U.S. Air Force Europe attacks in theater, establishing duty station at 2nd echelon hospital, and deployed wartime locations. Served on 2nd echelon hospital decontamination team decontaminating patients arriving at hospital, performed unexploded ordinance (UXO) sweeps following conventional warfare attacks, utilized chemical warfare agent (CWA) monitoring kits following chemical attacks, and performed all radiological monitoring and stay-time calculations following nuclear device detonations or radioactive fallout.

CURRICULUM VITAE – BRUCE MILLER, M.S., CIH***Professional Development and Training***

Attended more than 80 American Industrial Hygiene Association (AIHA) professional development course (PDCs) (continuing education) for American Board of Industrial Hygiene (ABIH) Certified Industrial Hygienist (CIH) certification maintenance. Course in industrial hygiene, , exposure assessment, and other technical courses have completed annually since 1993 in the fields of construction safety, accident investigations, medical surveillance, exposure modeling and banding, biostatistics, epidemiological studies, occupational exposure limit adjustment, remediation technology and engineering, microbial and bioaerosol investigations, legal and expert witness/testimony, Biosafety Level 3 laboratory assessments and practices, and other industrial hygiene and safety related topics. A complete list of PDC courses completed is available upon request.

Department of Energy-Specific training includes -

- DOE Radiological Worker I & II Instructor (Mr. Miller was a DOE RW I & II Training instructor to DOE and contractors at the DOE Idaho National Laboratory)
- DOE Radiological Worker II
- Nuclear Criticality Safety
- Radiological Glovebag Installation, Inspection, and Use
- DOE Conduct of Operations and Maintenance
- OSHA 40-Hour HAZWOPER (with 8-hour refresher courses)
- OSHA HAZWOPER Site Supervisor
- OSHA Confined Space Entrant, Attendant, and Job Entry Supervisor
- Respirator Qualification Training (APR and supplied air)
- Medic 1st Aid/CPR
- HAZMAT General Awareness (DOT Sample Shipping)
- EPA CERCLA/RCRA TAA and SAA Inspections
- OSHA Institute - Indoor Air Quality Investigations

U.S. Air Force Training includes but not limited to:

- Industrial Hygiene Advanced Topics, USAF School of Aerospace Medicine
- Radiological Health Physics Course, USAF School of Aerospace Medicine
- Bioenvironmental Engineering Technician Course, USAF School of Aerospace Medicine.

Presenter and Instructor Courses

- Course Developer and Instructor: AIHA Professional Conference on Industrial Hygiene (PCIH) 2010, *WS-4 Mock Trial: Multi-employer Work Site*, Dallas, TX October 11, 2010.
- Arranger, Moderator, Presenter: American Industrial Hygiene Conference and Exhibition (AIHce 2009), Round Table - *249 Mock Trial: Liability Issues for the Industrial Hygienist*, June 4, 2009,

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Toronto, Canada.

- Presenter: AIHce 2008, Round Table - *209 Mock Trial: Meth Lab Cleanup*, June 2, 2008, Minneapolis, MN.
- Course Developer/Instructor: AIHA Teton Local Section Professional Development Conference, *OSHA Multi-Employer Worksite Compliance*, December 9, 2005, Idaho Falls, ID.
- Speaker: Advanced Perspectives in Mold Prevention & Control: *Crafting Professional Judgment for Assessment & Remediation Approaches to Varying Occupancies/ Building Types* (November 7-9, 2004 Riviera Hotel and Casino, Las Vegas, Nevada)
- Course Developer and Instructor: 2004 Idaho Governor's Health and Safety Conference Mold Investigation and Remediation, University of Idaho, Pocatello, ID.

Other Specialties/Experience

Extensive experienced in operation of multiple industrial hygiene, environmental, and radiological monitoring and sampling instruments and equipment.

- Air/Direct Reading: personal and area air samplers, multi-gas meters, PID, FID, IR, photo-acoustical analyzer, portable GC, aerosol, thermal anemometer (ventilation), optical and laser particle counters.
- Environmental Media Characterization: conductivity/turbidity/dissolved oxygen/pH meters, coliwasa, bailers, environmental immuno-assay/ kits, soil augers (split, core, sludge, tube), liquid sampling pumps.
- Radiological Instruments: *Ionizing Instruments* - ion chambers, GM, scintillation, proportional counters, panoramic survey meter, *Non-Ionizing instruments* - infrared, radio frequency, radar, laser energy measurement instrumentation.
- Physical Hazard Monitoring: Noise meters/dosimetry, heat stress (WBGT), ergonomic stressors, vibration, infrared thermoimaging.
- Microbial Investigation/Sampling/Remediation: Culturable and nonculturable air sampling methodologies; collection of microbial specimens through direct tape lift, bulk sampling, dust collection; invasive inspection methods using borescopes, wall samplers; noninvasive inspection methods using non/penetrating moisture meters, infrared thermoimaging cameras, relative humidity measurements. Preparation of remedial specifications including establishing containment and decontamination areas, removal protocols, pre- and post-remedial sampling, and HVAC assessments.

Hardware and Software Capabilities

- Skilled in the use of Internet ES&H resources (toxicological registries and databases, exposure modeling, statistical exposure analysis, modeling, and program development)
- Proficient with various software packages (EXCEL, WORD, Power Point, ACCESS, exposure modeling) and their applications for occupational and environmental hygiene.

Professional Organizations

- Past Chair, Committee Member, American Industrial Hygiene Association (AIHA), Law Committee

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- Past Chair, Member, AIHA Consultants Special Interest Group
- Committee Member, AIHA Indoor Environmental Quality Committee
- Past Committee Member, AIHA Environmental Affairs Committee
- Member, American Industrial Hygiene Association.
- Member, Health Physics Society
- Associate Member, American College of Occupational & Environmental Medicine.

Security Clearance (previously held)

- Department of Energy (DOE) “Q” Clearance
- Department of Defense “Top Secret” Clearance)

Work History

2013 – Present: Health and Safety Services, LLC

2011 – 2013: North Wind Solutions, LLC

2009 – 2011: North Wind Group

2004 – 2009: North Wind, Inc.

1998 – 2004: Vortex Enterprises, Inc.

1995 – 1998: S.M. Stoller Corporation

1994 – 1995: Lockheed Martin Idaho Technologies Company

1993 – 1994: EG&G Idaho, Inc.

1991 – 1993: U.S. Air Force (USAF), Bioenvironmental Engineering, Whiteman Air Force Base, MO

1987 – 1991: USAF, Bioenvironmental Engineering, Spangdahlem Air Force Base, Germany

Publications

- DOE Report, "Chemical Safety Vulnerability Working Group Report," DOE/-0396P, September 1994 – as member of US DOE-HQ Chemical Safety Vulnerability Working Group.
- B.P. Miller, *Engineering Design File - OU 7-10 Staged Interim Action Phase II Respiratory Protection Requirements*, EDF-ER-171, July 6, 2000.
- Numerous Detailed and Standard Operating Technical Procedures (TPRs), project plans (PLNs), list (LST) documents, and Test Plans for DOE prime contractors at the INL (see list below).
- Numerous Health and Safety Plans for characterization, remediation, D&D, and treatment projects at DOE, DoD, BLM, and USACE facilities (see projects below).
- Sampling and Analysis Plans for private sector clients including matrices such as sand blasting media, hazardous sludges, petroleum contaminated soils, microbial, fungal, groundwater, etc.
- More than 200 microbial investigation and remedial specification documents for microbial affected residential, commercial, and industrial structures.
- B.P. Miller, 1992, Central Missouri State University Library, Department of Safety Science and Technology Technical Reference, *Radiological Hazards: Evaluation and Control*.

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AFFIDAVIT OF BAXTER D. MONTGOMERY, MD

EXHIBIT #26

STATE OF TEXAS)
) ss.
COUNTY OF HARRIS)

BAXTER DELWORTH MONTGOMERY, MD, declares under penalty of perjury pursuant to Texas Civil Practice and Remedies Code Title 6 Section 132 that the foregoing is true and correct:

1. I am above the age of 18 and am competent to make this affidavit.
2. I am a Diplomate of the American Board of Internal Medicine, for cardiovascular diseases, licensed with the Texas State Board of Medical Examiners since 1991 under Permit Number H9549.
3. I am President and CEO of Houston Associates of Cardiovascular Medicine, PA, performing various forms of cardiovascular clinical care.
4. I have medical privileges at and serve as an attending physician for Memorial Hermann Hospital - The Texas Medical Center, The Heart and Vascular Institute at the Memorial Hermann Hospital - The Texas Medical Center,
5. I have chaired the Patient Safety Committee at Twelve Oaks Medical Center.
6. For 25 years until the present, I have served as Teaching Faculty for Cardiology Fellows at The Heart and Vascular Institute Memorial Hermann Hospital - The Texas Medical Center. (See my Curriculum Vita attached as **Exhibit A**).
7. Because cardiovascular disease has been the #1 cause of death in the United States, fifteen (15) years ago I began implementing lifestyle interventions within my clinical practice.

8. There are numerous peer reviewed studies on the benefits of a plant-based diet and lifestyle interventions in fighting disease.¹
9. Currently, as President and CEO of Houston Associates of Cardiovascular Medicine, PA, I am responsible, with my staff, for the oversight and compliance with state and federal workplace and patient safety laws applicable to all healthcare facilities.
10. Therefore, I have general knowledge and working experience with the standards, regulations and guidance provided by the Department of Labor, Occupational Safety and Health Administration (OSHA). As part of my day-to-day duties as a healthcare clinical practitioner and compliance administrator during this Covid Pandemic, I constantly worked to ensure that my healthcare facility complies with patient and employee workplace safety standards.
11. Since March 2020 when the Pandemic was declared, I have treated many patients who have either tested positive for the virus that causes Covid-19, or have had Covid-19 related symptoms and I make this affidavit based on my clinical patient experience as well as based on my knowledge and experience as a practicing physician.
12. I have been retained by Attorney Jo Saint-George and Attorney Donna Este-Green of the non-profit organization the Women of Color for Equal Justice to give expert opinions based on my knowledge and experience as a licensed medical professional.
13. Specifically, I have been retained to provide opinions regarding whether or not employees who work in a healthcare setting with or without direct patient care responsibilities, or who work for municipal or private employer entities with or without direct public contact or have minimal public contact should be terminated by an employer for refusing to submit to the FDA emergency authorized injection called the “Covid-19 vaccine” based on applicable healthcare and general workplace safety standards as it relates to the medical efficacy of the COVID-19 vaccines and their potential risks.

¹ See Plant-based Research Database - <https://plantbasedresearch.org/>

14. In preparation of providing my opinions herein, I have reviewed the following: 1) New York City Department of Health and Mental Hygiene vaccine orders from August 10, 2021 to December 13, 2021, 2) applicable regulations of the U.S. Department of Labor, Occupational Safety and Health Administration, and 3) the affidavit and documents provided by Certified Industrial Hygienist, Mr. Bruce Miller, MS, CIH, President of Health & Safety, LLC.

BACKGROUND & PRELIMINARY OPINIONS

15. Between August 10, 2021 and December 13, 2021, the New York City Department of Health and Mental Hygiene (NYCDOHMH) issued approximate twelve (12) Covid-19 Emergency Orders applicable to New York City employees within its various agencies (“NYC Emergency Orders”).²
16. Based on my review of the NYC Emergency Orders, the primary purpose of the orders was to mandate all New York City employee to submit to taking Covid-19 vaccinations as a workplace safety and health standard that reduces the spread and contraction of the virus that causes the communicable disease “Covid-19” in New York City facilities.
17. While the Covid Emergency Orders state that the Covid-19 vaccine requirements are for the benefit of the “health, safety, and welfare” of New York City residents, the orders only apply to New York City employees and do not indicate that there is a direct impact on the residents of the City. Based on my general public health knowledge as a clinician, the Emergency Orders are directed at City Employees in their workplace.

² See List of New York City Department of Health & Mental Hygiene list of Orders at <https://www1.nyc.gov/site/doh/about/hearings-and-notices/official-notices.page>

OPINIONS REGARDING COVID-19 WORKPLACE SAFETY REQUIREMENTS

18. My opinions regarding workplace safety requirements in general and for healthcare facilities are as follow and are made to a degree of medical certainty:
- a. the Covid-19 vaccines utilized in the United States are pharmacological medical treatments used to reduce symptoms that result from an infection of the viral pathogen and/or various variants of the Sars Cov2 virus, which causes the infectious disease identified by the Centers for Disease Control as Covid-19.
 - b. “Covid-19 vaccines” do not eliminate the virus that causes infections of Covid-19 from the atmosphere of any in door facility. The virus that causes Covid-19 and/or its variants is an atmospheric contaminant or airborne hazard that should be controlled in any in-door facility which could stop or prevent the contraction of any infectious communicable diseases that can cause serious injury or death.
 - c. Based on my general clinical knowledge of workplace safety standards for healthcare facilities and general industry facilities, the OSHA Standard at 29 C.F.R. § 1910.134 et seq.³ titled “Respirator Protection” provides the minimum health and safety standard that any facility can utilize to reduce the risks of severe injury or death associated with any airborne contaminant that cannot be eliminate or controlled by other OSHA standards or methods.
 - d. Because the Covid-19 vaccines cannot remove the virus that causes Covid-19 infections from the atmosphere of any facility, based on my clinical experience and hospital experience, N95 respirators or Powered Air Purification Respirators, which have the highest efficacy in reducing exposure to any airborne contaminate and can be used and are necessary, when nothing else eliminates the virus, to prevent the spread

of any airborne communicable disease according to the OSHA and CDC published guide titled “Hospital Respiratory Protection Program Toolkit – Resources for Respiratory Program Administrators” published in May 2015.⁴

- e. There are entire industries of employees that are required to wear N95 respirators or PAPR’s everyday eight hours a day, specifically industrial workers in the automotive, welding, commercial painting utilize this equipment to protect their employees from airborne contaminants. Therefore, employees in any workplace that have a risk of exposure to or can spread a viral airborne contaminant should be provided by an employer with at least an N95 respirator or a PAPR consistent with the OSHA standards set forth in 29 U.S.C. 1910.134, especially when necessary to protect the health of an employee as indicated in 1910.134(a)(2).
- f. Based on my clinical experience treating patients with communicable disease, when the existing OSHA Respiratory Protection standards contained in Section 1910.134⁵ are properly implemented in any facility, along with all other OSHA standards applicable to addressing communicable disease, vaccines, including the Covid-19 vaccine, (which cannot stop the spread or transmission of the virus) are not needed to provide a safe workplace for a employees.
- g. While the OSHA standard 1910⁶ titled Bloodborne pathogens recommends making Hep B vaccine available to employees who have occupational exposure to hepatitis B, the vaccine does not cure nor remove the blood-borne virus that can cause chronic infection in the liver.

⁴ See Hospital Respiratory Protection Program Toolkit, May 2015 at <https://www.osha.gov/sites/default/files/publications/OSHA3767.pdf>

⁵ See OSHA Section 1910.134 Respiratory Protection at <https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.134>

⁶ See OSHA Bloodborne pathogens – Section 1910.1030 - <https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.1030>

- h. In general, no vaccine, whether the hepatitis B vaccine or a Covid-19 vaccine, cures or eliminate a communicable diseases 100%.
- i. While the main purpose of New York City Department of Health Covid Emergency Orders is to reduce the spread of Covid-19 in the workplace of New York City facilities, the Emergency Orders also carry the unintended consequence of introducing “new hazards” into the body of City employees via the Covid vaccines that can directly affect the health and safety of the City’s employees which conflicts with OSHA.
- j. The new hazard(s) include the known and reported severe and life-threatening adverse effects from the injection of the Covid-19 vaccine. All healthcare administrators of vaccines are required to report adverse effects of any vaccine to the Centers for Disease Control and Prevention (CDC) Vaccine Adverse Events Reporting System. As of March 18, the system reported that between December 14, 2020, and March 11, 2022, 1,183,495 reports of adverse events from all age groups following COVID vaccines, including 25,641 deaths and 208,209 serious injuries have been reported. As of the dates of the NYC and NYS Covid Emergency Orders were issued, in the VAERS data released September 17, 2021, by the CDC showed a total of 701,561 reports of adverse events from all age groups following COVID vaccines, including 14,925 deaths and 91,523 serious injuries between Dec. 14, 2020 and Sept. 10, 2021.⁷
- k. Because the OSHA General Duty Clause at 29 U.S.C. §654⁸ requires employers to recognize hazards that are “likely to cause death or serious physical harm to ...employees” and to comply with the OSHA standards promulgated to eliminate or reduce a hazard, when evaluated comprehensively, the OSH Act does not list vaccines

⁷ See VAERS Reporting Requirements for Covid-19 Vaccines at <https://vaers.hhs.gov/reportevent.html>

⁸ See OSH Act of 1970 General Duty Clause 29 U.S.C. 654 at <https://www.osha.gov/laws-regs/oshact/section5-duties>

as a promulgated standard that eliminates or reduces occupational environmental airborne contaminants or atmospheric contaminants in a workplace.⁹

- i. Finally, OSHA standards allow employers to modify work locations also to eliminate an employee's exposure to hazards in the workplace. Remote work is effective in eliminating employee exposures to airborne contaminants that may be in a workplace and is required to be used by employers before the use of other methods that introduce hazards like vaccines.
19. I am not aware of employees having been terminated for refusing a Hep B vaccine after exposure, therefore there is not need to terminate an employee for refusing to submit to the Covid-19 vaccine.

Additional Opinions Regarding Other Workplace Safety Duties Related to Covid-19

20. According to a CDC report around November 2020¹⁰ before Covid vaccines became available in the U.S., the primary cause of a person suffering severe Covid or a Covid related death after exposure to the respiratory hazard is the existing of one or more pre-existing chronic disease like heart disease, diabetes, chronic liver's disease, chronic pulmonary disease, to name a few.
21. The CDC for years has identified poor diet as one of four causes of chronic disease¹¹ in the U.S., which are the leading causes of all death.¹²
22. For many years, scientific medical journals have concluded that the consumption of red meat and processed meat are the leading cause of most chronic disease and death in the United States.¹³

⁹ See OSH Act of 1970 Comprehensive Table of OSHA laws & Regulations - <https://www.osha.gov/laws-regs/regulations/standardnumber>

¹⁰ Centers for Disease Control and Prevention (CDC). Coronavirus disease 2019 (COVID-19)—people with certain medical conditions. Atlanta (GA): US Department of Health and Human Services, CDC; Nov. 2020. <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>

¹¹ Centers for Disease Control and Prevention (CDC), Publication by the National Center for chronic Disease Prevention and Health Promotion – “About Chronic Disease” <https://www.cdc.gov/chronicdisease/about/index.htm>

¹² National, Heart, Lung and Blood Institute - publication “Americans poor diet drives \$50 billion a year in health care costs December 17, 2019” <https://www.nhlbi.nih.gov/news/2019/americans-poor-diet-drives-50-billion-year-health-care-costs>

¹³ “Red meat and processed meat consumption and all-cause mortality:” a meta-analysis

23. New York law defines “potentially hazardous food” as any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, cooked potato, in a form capable of supporting: (1) rapid and progressive growth of infectious or toxigenic microorganisms; or (2) the slower growth of *C. botulinum*.¹⁴
24. While the NY State and FDA defines potentially hazardous foods based on the ability of the “food” to support or serve as reservoirs of harmful and infectious pathogens, which include pathogenic protozoans, bacteria, and viruses, as a public health researcher and practitioner, it is my opinion that potentially hazardous foods also include animal foods whose intrinsic factors (which include but are not limited to animal blood, fat and flesh) when consumed have demonstrated in over a dozen scientific studies to cause chronic disease and impairment of the body’s natural immune response.
25. Base on my medical experience and knowledge as a medical practitioner who prescribes (as a scientifically supported evidence based intervention) whole plant-based foods and lifestyle interventions to treat chronic disease, including heart disease, renal disease, obesity, both in the clinical and acute and intensive care setting, it is my opinion that employers that provide employees food or meals in the workplace also have a duty to remove and eliminate “potentially hazardous food” from employer operated or contracted cafeterias and specifically from patient meal services and vending machines to also reduce the risk of employees and patients suffering severe Covid or Covid related illnesses.
26. In a study published June 11, 2018 by the CDC that included 5,222 employees across the US, it was found that the foods people get at work tended to be high in empty calories —

Susanna C Larsson, Nicola Orsini, Am J Epidemiol Feb. 1, 2014;179(3):282-9. doi: 10.1093/<https://pubmed.ncbi.nlm.nih.gov/24148709/> see also “The global diabetes epidemic as a consequence of lifestyle-induced low-grade inflammation” by H. Kolb and T. Mandrup-Poulsen, Diabetologia Jan, 2010;53(1):10-20. - <https://pubmed.ncbi.nlm.nih.gov/19890624/>

¹⁴ See New York Codes, Rules and Regulations Section 14-2.3.

those from solid fats and/or added sugars — with more than 70 percent of the calories coming from food that was obtained for free in the workplace.¹⁵

27. In a 2019 scientific study by a Dr. Robert Vogel (which was summarized in the documentary *The Game Changers*,¹⁶) on the impact of the daily consumption of animal fat on human endothelial function, it was determine that the consumption of a single meal that consists of “potentially hazardous food” impairs blood flow throughout the body.
28. Many studies have shown that impaired endothelial function has a direct impact on immune function that can cause severe disease and death.
29. In a study published in April 2021, before any Covid-19 mandates were order, it was reported that endothelial dysfunction and immunothrombosis as key pathogenic mechanisms in severe COVID-19 and Covid related deaths.¹⁷
30. Therefore, while implementing the most~~potentially~~ effective risk mitigation control to remove the existence of Covid viral pathogens from the workplace atmosphere either through: 1) HEPA filtration systems, 2) ~~reducing an employee’s risk of exposure through the use of~~ remote work, or 3) through the use of PAPR respirators to eliminate an employees exposure to the airborne pathogen (either singularly or in combination), in my opinion, removing the “potentially hazardous foods” is equally necessary, if not more important to preventing severe Covid-19 and death in employees.
31. The statements and opinions made in this Affidavit are preliminary and I reserve the right to add to, amend or modify my opinions as more facts are provided during the course of any litigation of the claims by the Classes of Plaintiffs for which this affidavit is provided.

¹⁵ Foods and Beverages Obtained at Worksites in the United States by Stephen Onufrak CDC Epidemiologist, in Journal of the American Academy of Nutrition and Dietetics 119(6) DOI:10.1016/j.jand.2018.11.011

¹⁶ 3 Minute video on the Impact on Animal Fat on Endothelial Function study by Dr. Robert Vogel, Cardiologist– 2019 study from the “Game Changers” documentary <https://tinyurl.com/5du5nuke>

¹⁷ Endothelial dysfunction and Immunothrombosis as key pathogenic mechanisms in COVID-19 By Aldo Bonaventura, and Alessandra Vecchié.... Nat Rev. Immunol. 2021; 21(5): 319–329 – see <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8023349/>

I declare under penalty of perjury under the laws of the State of Texas that the foregoing is true and correct.

Dated this 19th day of April, 2022.

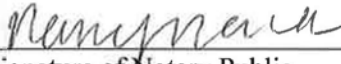


DR. BAXTER MONTGOMERY

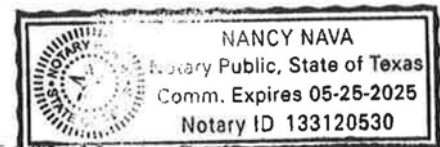
A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

Subscribed and sworn to (or affirmed) before me on this 19th day of April, 2022, by Dr. Baxter Montgomery, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Witness my hand and official seal.



Signature of Notary Public



[Affix Notary Seal]

1. The California Respirator Program Administrators toolkit can be accessed at: <https://www.cdph.ca.gov/Programs/CCDPHP/DEODC/OHB/Pages/RespToolkit.aspx> external icon
2. Beckman S, Materna B, Goldmacher S, Zipprich J, D'Alessandro M, Novak D, Harrison R [2013]. Evaluation of respiratory protection programs and practices in

BAXTER DELWORTH MONTGOMERY, MD

The Plant-Based Physician
[Montgomery Heart & Wellness](#)
[Video Bio](#)

EXPERIENCE: Clinical Assistant Professor
The University of Texas Health Science Center
Department of Medicine
Division of Cardiology/Clinical Cardiac Electrophysiology

President and CEO
Houston Associates of Cardiovascular Medicine, PA.
(1997-Present)

Executive Director
The Johnsie and Aubary Montgomery Institute of Medical Education and
Research (a 501(c) 3 nonprofit organization)

BIRTHPLACE: Houston, Texas
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**UNDERGRADUATE
EDUCATION:** William Marsh Rice University
Houston, Texas
Bachelor's Degree in Biochemistry (1986)

GRADUATE EDUCATION: The University of Texas Medical Branch at Galveston
Galveston, Texas
Doctor of Medicine

RESIDENCY: Baylor College of Medicine
Houston, Texas
Internal Medicine

FELLOWSHIP: The University of Texas Health Science Center at Houston
Houston, Texas
Cardiovascular Diseases
Clinical Cardiac Electrophysiology

CERTIFICATION:

Diplomate of the American Board of Internal Medicine, Cardiovascular Diseases

Diplomate of the American Board of Internal Medicine, Clinical Cardiac Electrophysiology

LICENSURE:

Texas State Board of Medical Examiners (Since 1999)
Permit Number H9549

HOSPITAL APPOINTMENTS:

Attending Physician
Memorial Hermann Hospital - The Texas Medical Center
Houston, Texas

Attending Physician
The Heart and vascular Institute
Memorial Hermann Hospital - The Texas Medical Center
Houston, Texas

Consulting Physician
Select Specialty Hospital - Heights
Houston, Texas

TEACHING RESPONSIBILITIES:

Teaching Faculty for Cardiology Fellows and Clinical Advanced Nurse Practitioners
The Heart and Vascular Institute
Memorial Hermann Hospital - The Texas Medical Center
1997 - Present

Cardiovascular Disease Lecturer
GlaxoSmithKline, Inc.
2000 - Present

Cardiovascular Disease Lecturer
Novartis, Inc.
2006 - Present

Cardiovascular Disease Lecturer
Boston Scientific, Inc.
2006 - Present

Co-Director and Lecturing Faculty
Cardiology Concepts for Non-Cardiologists
(An Annual Houston Area Educational Symposium)

JAM Institute, Inc.
2006 - 2008

Steering Committee Member and Lecturing Faculty
Close the Gap
Boston Scientific, Inc.
2006 - Present

RESEARCH:

CLINICAL STUDIES:

ALLHAT: Antihypertensive and Lipid-Lowering Treatment to Prevent Heart Attack Trial. ALLHAT was a blinded, randomized trial that investigated the relative efficacy of different classes of antihypertensive agents in reducing stroke, illness and death from cardiovascular diseases. A subgroup of patients with hyperlipidemia was randomized comparing Pravastatin compared to usual care.
A Houston Site - Principal Investigator (1998)

INVEST: The International Verapamil SR/Trandolapril Study. INVEST was a randomized controlled clinical trial comparing a calcium antagonist treatment strategy (Isoptin® SR) with a non calcium antagonist treatment strategy for the control of hypertension in a primary care coronary artery disease patient population.
A Houston Site - Principal Investigator (2000)

INVEST SUB-STUDY: This study was a sub-study of the INVEST patient population designed to evaluate the impact of genetic differences on pharmacokinetics.
A Houston Site - Principal Investigator (2000)

The Safety and Efficacy of PNU-182716 Versus Rosiglitazone: This was a one-year, randomized, double blind, parallel group, and active comparator study.
A Houston Site - Principal Investigator (2000)

FACTOR: Fenofibrate and Cerivastatin Trial Optimizing Response. FACTOR was a multicenter, randomized, double blind, placebo controlled, parallel group, study of the safety and efficacy of Cerivastatin in combination with Fenofibrate compared to Cerivastatin alone, Fenofibrate alone and placebo in a population of Type 2 Diabetic Men and Women.
Grant Sponsor - Bayer 2001
A Houston Site - Principal Investigator

ADHERE: ADHERE was a national registry of patients admitted to hospitals with acute decompensated congestive heart failure.

A Houston Site - Principal Investigator (2001)

STELID TM AND STELIX TM LEADS STUDY: This study was a

safety and efficacy study of steroid-eluting cardiac pacing leads.

Grant Sponsor - Ella Medical 2002

ARRHYTHMIA PATHWAY STUDY: This was a patient registry study designed to assess the efficacy of a clinical algorithm for identifying and assessing patients at risk of sudden cardiac arrest.

Grant Sponsor - Medtronic, Inc. 2002

A Houston Site - Principal Investigator

RAPIDO CATHETER STUDY: This study was to evaluate the efficacy of a left ventricular defibrillator-pacemaker lead delivery system.

Grant Sponsor - Guidant, Inc. 2003

A Houston Site - Principal Investigator

PROTOS HEART RATE DISTRIBUTION STUDY: This was a clinical study designed to compare the heart rate distribution in patients undergoing pacemaker implants requiring heart rate response therapy. This study compared the heart rate distribution of accelerometer rate response therapy to the BIOTRONIK Closed Loop System therapy.

Grant Sponsor - Biotronik, Inc. 2003

A Houston Site - Principal Investigator

CSPP100A2404 - A 54 week, randomized, double-blind, parallel-group, multicenter study evaluating the long-term gastrointestinal (GI) safety and tolerability of Aliskiren (300 mg) compared to Ramipril (10 mg) in patients with essential hypertension.

Sponsored by Novartis, since April 4, 2008.

A Houston Site - Principal Investigator

CSPP100AUS03 - An 8 week Prospective, Multicenter, Randomized, Double-Blind, Active Control, Parallel Group Study to Evaluate the Efficacy and Safety of Aliskiren HCTZ versus Amlodipine in African American Patients with Stage 2 Hypertension.

Sponsored by Novartis, since August 2008.

A Houston Site - Principal Investigator

CSPP100A2409- An 8 week randomized, double-blind, parallel-group, multicenter, active-controlled dose escalation study to evaluate the

efficacy and safety of Aliskiren HCTZ (300/25 MG) compared to Amlodipine (10 mg) in patients with stage 2 systolic hypertension and diabetes mellitus.

Sponsored by Novartis, since December 2008.

A Houston Site - Principal Investigator

SPAIOOAUSOI - An 8 week randomized, double-blinded, parallel-group, multicenter, active-controlled dose escalation study to evaluate the efficacy and safety of Aliskiren Administered in Combination with Amlodipine (150/5 mg, 300/10 mg) versus Amlodipine alone (5 mg, 10 mg) in African American patient with Stage 2 Hypertension. Sponsored by Novartis, since February 2009.

CLAF237B22OI- A multicenter, randomized, double-blind study to evaluate the efficacy and long-term safety of vildagliptin modified release (MR) as monotherapy in patients with type 2 diabetes. Sponsored by Novartis, since February 2009.

A Houston Site - Principal Investigator

CLAF237B2224 - A multi-center, randomized, double-blind study to evaluate the efficacy and long-term safety of vildagliptin modified release (MR) as add-on therapy to metformin in patients with type 2 diabetes. Sponsored by Novartis, since February 2009.

A Houston Site - Principal Investigator

Galaxy study: An aftermarket registry of one of the Biotronik implantable cardioverter defibrillators ICD leads (2009 to present)

A Houston Site - Principal Investigator

Paradigm study: A multicenter, randomized, double-blind, parallel group, active-controlled study to evaluate the efficacy and safety of LCZ696 compared to enalapril on morbidity and mortality in patients with chronic heart failure and reduced ejection fraction. 2009 -2014

A Houston Site - Principal Investigator

BASIC RESEARCH:

In Rapid Separation of Mitochondria from Extra- mitochondrial Space Applied to Rat Heart Mitochondria. An abstract presented at an NIH sponsored student research poster session, Univ. of Texas Medical Branch, Galveston, TX, June 17, 1987.

Regulation of the Adenine Nucleotide Pool-Size of Heart Mitochondria by the ADP/ATP Translocase. Abstract and poster presented at the Galveston-Houston Conference for Cardiovascular

Research, Univ. of Texas, Medical Branch, Galveston, TX, February 26, 1988.

The Adenine Nucleotide Pool-Size of Heart Mitochondria is Regulated by the ADP/ATP Translocase. Abstract presented at the 29th Annual National Student Research Forum, University of Texas Medical Branch, Galveston Texas, April 6-8, 1988.

Increased Frequency of the Deletion Allele of the ACE Gene in African-Americans Compared to Caucasians. This study evaluated the prevalence of the deletion allele of the ACE gene in a population of African Americans compared to Caucasians. The findings were presented at the annual meeting of the American College of Cardiology in March of 1996.

Determination of the effect of Calcium infusion on CGRP mRNA Production. A pilot study investigating a possible mechanism by which calcium supplementation may increase CGRP (Calcitonin gene-related peptide, a potent peripheral vasodilator) content in afferent neurons of Sprague Dawley rats, 1990.

PUBLICATIONS:

Montgomery, B, D, MD. A Review of Microanatomy for Medical Students, 1987, chapter 1-8.

Baxter D. Montgomery, MD, Elizabeth A. Putnam, Ph.D., John Reveille, MD, Dianna M. Milewicz. MD, Ph.D.: Increased Frequency of the Deletion Allele of the ACE Gene in African-Americans Compared to Caucasians. (Abstract) J. American College of Cardiology March, 1996

Doyle, N.M., Monga, M., **Montgomery, B.**, Dougherty, A.H.: Arrhythmogenic right ventricular cardiomyopathy with implantable cardioverter defibrillator placement in pregnancy. J Mat Fetal Neo Med 18:141-4, 2005

Baxter D. Montgomery, MD Co-Author of Dreams of the nation Book: "Improving Health" with focus on strengthening the food and health connection and replacing unnatural foods from our diet and replacing them with natural foods as a way of reversing illness. 2009

Montgomery, Baxter D: The Food Prescription for Better Health, Houston: Delworth Publishing, 2011

Montgomery,B.D, MD, Effects of the Montgomery Food Prescription on Clinical Biomarkers of Cardiovascular Disease. Plant-based diet can improve clinical biomarkers associated with cardiovascular disease. This study was submitted to the 10th annual Texas A&M University System Pathways Student Research Symposium 2012.

Baxter D. Montgomery, MD Co-Author of the book Rethink Food: About the need for revolutionary change in how to address chronic illness with optimal nutrition.2014

CLINICAL PRESENTATIONS:

Clinical Concepts for Non Cardiologist, Director and Faculty. An educational symposium held for primary care and other non-cardiology specialists in the Houston area. October 2006

Patients at Risk for Sudden Cardiac Arrest Dinner Symposium at the Houston Forum June, 2007

Clinical Concepts for Non Cardiologist, Director and Faculty. An educational symposium held for primary care and other non-cardiology specialists in the Houston area. October 2007

Clinical Concepts for Non Cardiologist, Director and Faculty. An educational symposium held for primary care and other non-cardiology specialists in the Houston area. October 2008

Houston Town Hall Meeting, Director and Faculty. Health summit on the benefits of a healthy nutritional lifestyle for the management of chronic illnesses held for both health care professional and the general public in the Houston area. 2009

Houston Town Hall Meeting, Director and Faculty. Health summit on the benefits of a healthy nutritional lifestyle for the management of chronic illnesses held for both health care professional and the general public in the Houston area. 2010

Houston Health Summit (Town Hall Meeting), Director and Faculty. Health summit on the benefits of a healthy nutritional lifestyle for the management of chronic illnesses held for both health care professional and the general public in the Houston area. 2011

Houston Health Summit (Town Hall Meeting), Director and Faculty.
Health summit on the benefits of a healthy nutritional lifestyle for the
management of chronic illnesses held for both health care professional and
the general public in the Houston area. 2012

Houston Health Summit (Town Hall Meeting), Director and Faculty.
Health summit on the benefits of a healthy nutritional lifestyle for the
management of chronic illnesses held for both health care professional and
the general public in the Houston area. 2013

PROFESSIONAL APPOINTMENTS:

Clinical Assistant Professor of Medicine, University of Texas Health
Science Center - Houston 1996 - Present

Steering Committee Member, Boston Scientific Close the Gap Initiative
2005 - Present

Scientific/Medical Board of Advisors, Nutritional Excellence, Inc. 2007 -
Present

Medical Board of Directors, Twelve Oaks Medical Center Independent
Physician's Association 2005 - Present

Medical Executive Committee (Twelve Oaks Hospital), Member at Large
2002 - 2006

Patient Safety Committee (Twelve Oaks Hospital), Chairman 2002 - 2004

Physician Peer Review Committee (Twelve Oaks Hospital) 2002 - 2005

Medical Director, SCCI (Specialized Complex Care) Hospital, 2003 -
2005

Physician Relation Council Advisory Board, Unicare, 2002 - 2004

Aldine Education Foundation: The mission of the Aldine Education
Foundation is to provide community-based support to the Aldine
Independent School District in pursuit of excellence in teaching,
innovation in the classroom and superior learning opportunities for all
students.

CLINICAL INTERESTS:

Nutritional Lifestyle Interventions for the Management of Chronic
Illnesses
Cardiac Pacing and Electrophysiology

Diastolic and Systolic Heart Failure
Hypertensive Heart Disease
Cardiovascular Exercise Physiology
Basic Echocardiography
Nuclear Cardiology
Diagnostic Cardiac Catheterization
Cardiovascular Wellness and Nutrition

PROFESSIONAL ASSOCIATIONS:

American College of Cardiology (Elected as Fellow of the College in January, 1999)
American Heart Association
Heart Rhythm Society (North American Society of Pacing and Electrophysiology, NASPE)
American College of Physicians
Harris County Medical Society
Houston Medical Forum

HONORS AND AWARDS:

Benjamin Spock Award for Compassion in
Medicine - 2010

America's Top Physicians - 2007

Cumulative evaluation of "Superior" performance by senior house staff and faculty during first year of residency (Baylor College of Medicine), 1990

Outstanding Young Men of America, 1988

Kempner Award (University of TX Medical Branch) 1986-87 and 1987-88

Academic Scholarship (University of TX Medical Branch) 1986-87

Who's Who Among American Colleges and Universities (Rice University) 1986

Franz Brotzen Outstanding Senior Award (Rice University) 1986

Jones College Service Award (Rice University) 1986 and 1985

100 Black Men of Metropolitan Houston (Awarded in 2012) for the dedication to the improvement of the community.

Physicians Committee for Responsible Medicine- Member of Advisory Board- Current.

ACTIVITIES:

Gardening
Scouting
Physical Conditioning

CLINICAL INVESTIGATIONS

Consumption of a defined, plant-based diet reduces lipoprotein(a), inflammation, and other atherogenic lipoproteins and particles within 4 weeks

Rami S. Najjar¹  | Carolyn E. Moore² | Baxter D. Montgomery^{3,4}¹Department of Nutrition, Georgia State University, Atlanta, Georgia²Department of Nutrition and Food Science, Texas Woman's University, Houston, Texas³University of Texas Health Science Center, Houston, Texas⁴Montgomery Heart & Wellness, Houston, Texas**Correspondence**Rami S. Najjar, MS, Department of Nutrition, Georgia State University, Atlanta, Georgia.
Email: rnajjar@twu.edu**Funding information**

Johnsie and Aubary Montgomery Institute of Medical Education and Research

Background: Lipoprotein(a) [Lp(a)] is a highly atherogenic lipoprotein and is minimally effected by lifestyle changes. While some drugs can reduce Lp(a), diet has not consistently shown definitive reduction of this biomarker. The effect of consuming a plant-based diet on serum Lp(a) concentrations have not been previously evaluated.**Hypothesis:** Consumption of a defined, plant-based for 4 weeks reduces Lp(a).**Methods:** Secondary analysis of a previous trial was conducted, in which overweight and obese individuals ($n = 31$) with low-density lipoprotein cholesterol concentrations >100 mg/dL consumed a defined, plant-based diet for 4 weeks. Baseline and 4-week labs were collected. Data were analyzed using a paired samples *t*-test.**Results:** Significant reductions were observed for serum Lp(a) (-32.0 ± 52.3 nmol/L, $P = 0.003$), apolipoprotein B (-13.2 ± 18.3 mg/dL, $P < 0.0005$), low-density lipoprotein (LDL) particles (-304.8 ± 363.0 nmol/L, $P < 0.0005$) and small-dense LDL cholesterol (-10.0 ± 9.2 mg/dL, $P < 0.0005$). Additionally, serum interleukin-6 (IL-6), total white blood cells, lipoprotein-associated phospholipase A2 (Lp-PLA2), high-sensitivity c-reactive protein (hs-CRP), and fibrinogen were significantly reduced ($P \leq 0.004$).**Conclusions:** A defined, plant-based diet has a favorable impact on Lp(a), inflammatory indicators, and other atherogenic lipoproteins and particles. Lp(a) concentration was previously thought to be only minimally altered by dietary interventions. In this protocol however, a defined plant-based diet was shown to substantially reduce this biomarker. Further investigation is required to elucidate the specific mechanisms that contribute to the reductions in Lp(a) concentrations, which may include alterations in gene expression.**KEYWORDS**

general clinical cardiology/adult, lipoproteins, preventive cardiology, vegetarian diet

1 | INTRODUCTION

Lipoprotein(a) [Lp(a)] is an atherogenic lipoprotein structurally similar to low-density lipoprotein cholesterol (LDL-C), although synthesis occurs through independent pathways. Key differences include the linkage of apolipoprotein B100 (Apo-B) to apolipoprotein(a) on the LDL surface.^{1,2} It has been estimated that expression of the genomic region encoding apolipoprotein(a) (*LPA* gene) accounts for approximately 90% of plasma Lp(a) concentrations.³ Elevated Lp(a) is independently associated with cardiovascular disease,⁴ and the *LPA* gene

was observed to have the strongest genetic link to cardiovascular disease.⁵ Individuals with Lp(a) plasma concentrations >20 mg/dL have twice the risk of developing cardiovascular disease and approximately 25% of the population may have this plasma concentration.⁶ The mode of action by which Lp(a) exerts its atherogenic effect is likely similar to that of LDL-C, by deposition in the sub-endothelial space and uptake by macrophages mediated via the VLDL receptor.⁷ Lp(a) is particularly atherogenic due to its unique property of being a carrier of oxidized phospholipids, in addition to its higher binding affinity to negatively charged endothelial proteoglycans.⁸ Lp(a) can facilitate

endothelial dysfunction when concentrations are elevated likely due to this effect.⁹

While PCSK9 inhibitors, high dose atorvastatin, ezetimibe and niacin have resulted in significant reductions in Lp(a),^{10–12} lifestyle interventions have not reliably demonstrated reduced Lp(a) to a clinically significant degree. Interestingly, even high saturated fat and high cholesterol diets known to induce hypercholesterolemia have had little influence on plasma Lp(a) concentrations.¹³ Despite the lack of evidence in the literature indicating a relationship between diet and Lp(a) concentrations, a defined, plant-based has not been previously evaluated with respect to its potential effect to reduce Lp(a). Previous investigations have found that a very-high fiber diet comprised of vegetables, fruits and nuts can reduce LDL-C by 33% and Apo-B by 26%,¹⁴ although Lp(a) was not measured. Since such a diet can result in dramatic reductions in LDL-C and Apo-B, secondary analysis of a previously published investigation¹⁵ employing a similar plant-based diet were analyzed to evaluate if Lp(a) could be significantly reduced after 4 weeks among other inflammatory indicators and atherogenic lipoproteins and particles.

2 | METHODS

2.1 | Study population

Participants were subjects of a previous study in which written informed consent was obtained to draw blood for analysis.¹⁵ Laboratory reports for each subject included biomarkers used for clinical purposes, and selected biomarkers are included in the present investigation. The study protocol was approved by the Texas Woman's University Institutional Review Board, Houston.

The study protocol has been previously described.¹⁵ Briefly, all participants were registered new patients of a cardiovascular center and were hypertensive (systolic blood pressure ≥ 140 mmHg or diastolic blood pressure ≥ 90 mmHg), had elevated LDL-C (≥ 100 mg/dL) and excess body weight (body mass index ≥ 25 kg/m²) at baseline. Exclusionary criteria included current tobacco use, current drug abuse, excessive alcohol use (>2 glasses of wine or equivalent for men or >1 glass of wine or equivalent for woman), a current cancer diagnosis, an ongoing clinically defined infection, a mental disability that would prevent a participant from following the study protocol, an estimated glomerular filtration rate < 60 mg/dL, current pregnancy or lactation, a hospitalization within the past 6 months, and previous exposure to the nutrition program.

2.2 | Intervention

Participants were instructed to consume a defined, plant-based diet for 4 weeks ad-libitum which included the consumption of foods within a food classification system.¹⁵ These foods fell within food levels 0 to 4b of the food classification system (Table S1, Supporting information). Briefly, excluded were animal products, cooked foods, free oils, soda, alcohol, and coffee. Allowed for consumption were raw fruits, vegetables, seeds, and avocado. Small amounts of raw buckwheat and oats were also permitted. Vitamin, herbal, and mineral

supplements were to be discontinued unless otherwise clinically indicated. All meals and snacks were provided to subjects, although they were free to consume food on their own within food levels 0 to 4b. In addition, subjects were not advised to alter their exercise habits. Adherence was measured daily as previously described¹⁵ with an adherence assessment tool. Participants indicated in writing each day whether they were adherent. Dietary recalls (24-hour) were conducted by a trained nutritionist at baseline and at 4 weeks. Nutrient intake was analyzed by the Nutrition Data System for Research software (University of Minnesota, version 2016). No lipid lowering medications were altered throughout the intervention.

2.3 | Measures

After a 12-hour fast, the following plasma biomarkers were obtained at baseline and after 4-weeks: total cholesterol (Total-C), LDL-C, high-density lipoprotein cholesterol (HDL-C), triglycerides, LDL particles (LDL-P), small-dense low-density lipoprotein cholesterol (sdLDL-C), Apo-B, high-density lipoprotein 2 cholesterol (HDL2-C), apolipoprotein A-1 (Apo A-1), and Lp(a). Additionally, high-sensitivity c-reactive protein (hs-CRP), endothelin, interleukin-6 (IL-6), tumor necrosis factor alpha (TNF- α), lipoprotein-associated phospholipase A2 (Lp-PLA2), myeloperoxidase, fibrinogen, troponin-I, N-terminal pro b-type natriuretic peptide (NT-proBNP), total white blood cell count (WBC), neutrophil count, lymphocyte count, monocyte count, eosinophil count, and basophil count were documented. These specific biomarkers of interest were analyzed by either True Health Diagnostics (Frisco, Texas) or Singulex (Alameda, California) depending on the subject's health insurance. The same company that analyzed the baseline labs for a participant was used for the follow-up labs to ensure consistency.

2.4 | Data analysis

Paired samples t-tests were used for the analysis of biochemical measures at baseline and 4-weeks, and significance was confirmed with non-parametric tests. Significance was determined to be a *P* value less than 0.05. SPSS (version 24) was used for data analysis.

3 | RESULTS

Baseline demographics are indicated in Table 1. Subjects represent a sample that was 81% obese with multiple clinical diagnoses. Two-thirds of subjects were women and 80% were African American.

Adherence to the dietary intervention was approximately 87% over the course of the 4 weeks as measured by the daily adherence assessment tool. Food group consumption is indicated in Table 2 at baseline and 4-weeks. Notably, total fruit consumption increased from 1.3 ± 2.0 servings to 11.8 ± 10.4 servings (808% increase, $P < 0.0005$) and total vegetable consumption increased 2.7 ± 2.0 servings to 16.0 ± 9.2 servings (493% increase, $P < 0.0005$). Additionally, total animal product consumption decreased from 7.9 ± 4.7 servings to 0.4 ± 1.4 servings (95% decrease, $P = 0.001$). The consumption of avocados, dark-green vegetables, deep-yellow vegetables, tomatoes,

TABLE 1 Baseline characteristics and clinical diagnoses

	Participants ^a
<i>n</i>	31
Age (years)	53.4 (32-69)
Sex	
Male	10 (33%)
Female	21 (67%)
Race, ethnicity	
African American	25 (80%)
Hispanic	3 (10%)
White	3 (10%)
Mean BMI (kg/m ²)	37.5 ± 8.3
Overweight (25-29.9 kg/m ²)	6 (19%)
Obesity class 1 (30-34.9 kg/m ²)	6 (19%)
Obesity class 2 (35-39.9 kg/m ²)	10 (33%)
Obesity class 3 (≥40 kg/m ²)	9 (29%)
Current diagnoses	
Coronary artery disease	10 (33%)
Type II diabetes mellitus	8 (27%)
Arthritic condition	7 (23%)
Pre-diabetes	5 (17%)

Abbreviation: BMI, body mass index.

^a Data are mean (range) unless otherwise indicated.

and other vegetables also significantly increased ($P \leq 0.006$). A decreased consumption of white potatoes, fried potatoes, total grains, refined grains, whole grains, added oils, added animal fat, red meat, white meat, eggs, and dairy were also observed ($P \leq 0.027$). The consumption of sweets (5% decrease, $P = 0.90$) and the consumption of nuts/seeds (17% increase, $P = 0.736$) did not significantly change between baseline and 4-weeks.

Body weight, BMI, total cholesterol, LDL-C, HDL-C, and triglycerides (Table 3) were significantly reduced after 4-weeks of the dietary intervention ($P \leq 0.008$). Lp(a) was also significantly reduced (-32.0 ± 52.3 nmol/L, $P = 0.003$). In addition, LDL-P, sdLDL-C, Apo-B, HDL2-C, and Apo A-1 were significantly reduced ($P \leq 0.03$). Of the atherogenic lipoproteins, sdLDL-C had the greatest relative reduction of approximately 30% (Figure 1). Lp(a) reduced 16% which was proportional to the decrease in Total-C, triglycerides and LDL-P.

Of the inflammatory indicators, hs-CRP, IL-6, Lp-PLA2, and fibrinogen significantly decreased ($P \leq 0.004$) (Table 4). The WBC, neutrophil, lymphocyte, monocyte, eosinophil and basophil count also significantly decreased ($P \leq 0.033$). Interestingly, no statistically significant changes were observed for endothelin-1, TNF- α , myeloperoxidase, troponin-I, or NT-proBNP ($P \geq 0.056$) between baseline and 4-weeks.

TABLE 2 Number of food group servings at baseline and 4-weeks^a

Food group	Serving size	Baseline ^b	Final ^b	Change ^c	<i>P</i> ^d
Fruits, total	1/2 cup chopped, 1/4 cup dried or 1 medium piece	1.3 ± 2.0	11.8 ± 10.4	808% (10.5 ± 10.8)	<0.0005
Avocado	1/2 cup chopped	0.1 ± 0.2	0.9 ± 0.9	800% (0.8 ± 0.9)	<0.0005
Vegetables, Total	1/2 cup chopped or 1 cup raw leafy	2.7 ± 2.0	16.0 ± 9.2	493% (13.3 ± 9.2)	<0.0005
Dark-green vegetables	1/2 cup chopped or 1 cup raw leafy	0.7 ± 1	5.2 ± 3.8	643% (4.5 ± 4.0)	<0.0005
Deep-yellow vegetables	1/2 cup chopped	0.2 ± 0.4	1.2 ± 1.1	500% (1.0 ± 1.3)	<0.0005
Tomatoes	1/2 cup chopped	0.4 ± 0.5	1.7 ± 2.4	325% (1.3 ± 2.4)	0.006
Other vegetables	1/2 cup chopped	1.4 ± 1.2	7.9 ± 6.6	464% (6.5 ± 6.3)	<0.0005
White Potatoes ^e	1/2 cup chopped or 1 medium baked potato	0.3 ± 0.7	0.0 ± 0.0	-100% (-0.3 ± 0.7)	0.03
Fried potatoes	1/2 cup chopped or 70 g french fries	0.5 ± 0.9	0.1 ± 0.3	-80% (-0.4 ± 0.9)	0.027
Grains, Total	1 slice of bread or halfcup cooked cereal	5.7 ± 3.5	0.7 ± 0.9	-88% (-5.0 ± 3.6)	<0.0005
Refined grains	1 slice of bread or half cup cooked cereal	3.8 ± 2.7	0.2 ± 0.7	-95% (-3.6 ± 3.0)	<0.0005
Whole grains	1 slice of bread or half cup cooked cereal	1.9 ± 2.6	0.5 ± 0.7	-74% (-1.4 ± 2.7)	0.007
Sweets ^f	4 g of sugar, 1 tbsp honey or 2 tbsp syrup	1.8 ± 2.3	1.7 ± 1.5	-5% (-0.1 ± 2.7)	0.90
Nuts/seeds	1/2 oz	1.2 ± 3.0	1.4 ± 1.6	17% (0.2 ± 3.4)	0.736
Added oils	1 tsp	3.2 ± 3.5	0.1 ± 0.2	-97% (-3.1 ± 3.5)	<0.0005
Added animal fat	1 tsp	1.3 ± 2.3	0.0 ± 0.1	-100% (-1.3 ± 2.3)	0.005
Animal products, Total ^g	1 oz	7.9 ± 4.7	0.4 ± 1.4	-95% (-7.5 ± 5.3)	0.001
Red meat	1 oz	2.1 ± 2.9	0.1 ± 0.2	-95% (-2.0 ± 3.0)	<0.0005
White meat	1 oz	3.9 ± 3.7	0.2 ± 1.1	-95% (-3.7 ± 4.1)	<0.0005
Eggs	1 large egg	0.5 ± 0.7	0.0 ± 0.1	-100% (-0.5 ± 0.7)	0.002
Dairy	1 cup of milk/yogurt or 1.5 oz of cheese	1.5 ± 1.6	0.1 ± 0.3	-93% (-1.4 ± 1.7)	<0.0005

^a Data are for subjects who completed 24-h recalls at both baseline and 4-weeks ($n = 30$).

^b Data are listed in serving size and are presented as mean ± SD.

^c Data indicated as % change (mean ± SD).

^d Paired samples *t*-tests for within-group comparisons of changes from baseline to final values.

^e Excludes fried potatoes.

^f Includes honey, candy, or other added sugars.

^g Excludes added animal fat.

TABLE 3 Atherogenic lipoproteins and particles at baseline and 4-weeks

	Baseline ^a	Final ^a	Change ^b	P ^c
Weight (kg)	108.1 ± 28.6	101.4 ± 26.3	-6% (-6.6 ± 3.6)	<0.0005
BMI (kg/m ²)	37.5 ± 8.3	35.2 ± 7.8	-6% (-2.2 ± 1.1)	<0.0005
Total-C (mg/dL)	216.6 ± 34.2	182.7 ± 29.9	-16% (-33.8 ± 25.9)	<0.0005
LDL-C (mg/dL)	143.0 ± 28.9	118.4 ± 26.4	-17% (-24.6 ± 21.3)	<0.0005
HDL-C (mg/dL)	54.8 ± 9.4	49.5 ± 10.6	-9% (-5.2 ± 6.2)	<0.0005
Triglycerides (mg/dL)	124.1 ± 58.1	104.5 ± 53.6	-16% (-19.6 ± 38.4)	0.008
Lp(a) (nmol/L) ^d	200.7 ± 150.0	168.8 ± 126.7	-16% (-32.0 ± 52.3)	0.003
Apo-B (mg/dL)	115.2 ± 24.5	101.9 ± 17.7	-11% (-13.3 ± 18.3)	<0.0005
LDL-P (nmol/L) ^e	1891 ± 586	1586 ± 508	-16% (-305 ± 363)	<0.0005
sdLDL-C (mg/dL)	33.7 ± 11.5	23.7 ± 8.7	-30% (-10.0 ± 9.2)	<0.0005
HDL2-C (mg/dL)	17.4 ± 9.8	15.6 ± 9.9	-10% (-1.8 ± 4.5)	0.030
Apo A-1 (mg/dL)	189.7 ± 150.7	160.2 ± 126.5	-14% (-27.0 ± 19.6)	<0.0005

Abbreviations: Apo A-1, apolipoprotein A-1; Apo-B, apolipoprotein B100; BMI, body mass index; HDL-C, high-density lipoprotein cholesterol; HDL2-C, high-density lipoprotein-2 cholesterol; LDL-C, low-density lipoprotein cholesterol; LDL-P, low-density lipoprotein particles; Lp(a), lipoprotein(a); sdLDL-C, small-dense low-density lipoprotein cholesterol; total-C, total cholesterol.

^a Mean ± SD (n = 31 unless otherwise indicated).

^b Data indicated as % change (mean ± SD).

^c Paired samples t-tests for within-group comparisons of changes from baseline to final values.

^d n = 28 due to premature coagulation of sample (n = 1) and incompatible units (mg/dL) when merging laboratory results (n = 2).

^e n = 29 due to premature coagulation of samples.

4 | DISCUSSION

The consumption of a defined, plant-based diet resulted in a significant reduction in Lp(a) after 4 weeks; thus, the study hypothesis was accepted. The reduction in Lp(a) was profound and is one of the largest reductions due to lifestyle reported in the literature. The magnitude of change was comparable to other leading medical therapies, such as niacin (~20% reduction) and PCSK9 inhibitors (~25% reduction).¹² It is important to note that this dietary intervention rapidly reduced Lp(a) by 16% in only 4 weeks, whereas shorter duration

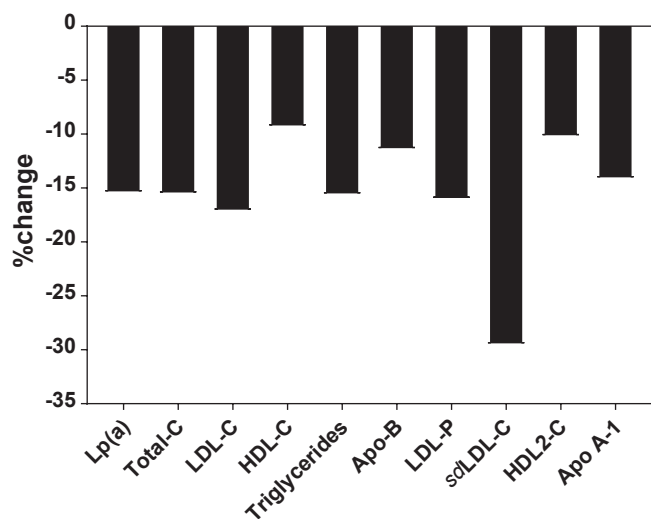


FIGURE 1 Percent change of atherogenic lipoproteins and particles from baseline to 4-weeks. All variable changes indicated are significant (P < 0.05). Lp(a), lipoprotein(a); Total-C, total cholesterol; LDL-C, low-density lipoprotein cholesterol; HDL-C, high-density lipoprotein cholesterol; Apo-B, apolipoprotein B100; LDL-P, low-density lipoprotein particles; sdLDL-C, small-dense low-density lipoprotein cholesterol; HDL2-C, high-density lipoprotein-2 cholesterol; Apo A-1, apolipoprotein A-1

niacin and PCSK9 inhibitor drug trials typically lasted 8 to 12 weeks. It should also be noted that niacin may reduce inflammation, such as hs-CRP, by 15% after 3 months, although PCSK9 inhibitors do not.^{16,17} After 4 weeks, the dietary intervention reduced hs-CRP by 30.7%. In addition, IL-6, Lp-PLA2, fibrinogen, and white blood cells were significantly reduced, as were sdLDL-C, LDL-P, and Apo-B, all of which represent a systemic, cardio-protective effect.¹⁸⁻²⁴ Thus, the use of this single dietary approach in the clinical setting, vs multiple drug therapy, may be an appropriate tool in treating complex patients with a myriad of elevated CVD-related biomarkers.

Elevated Apo A1, HDL-C, and HDL2-C are associated with reduced cardiovascular disease risk.^{24,25} While these HDL fractions were significantly reduced in this trial, this is a common phenomenon observed when consuming plant-based diets. A systematic review and meta-analysis of plant-based observational and clinical trials found that while HDL-C was significantly reduced compared to those consuming non-vegetarian diets, LDL-C and total-C were also reduced.²⁶ Despite reductions in HDL-C, those who consumed plant-based diets had a 25% reduced incidence of ischemic CVD compared with non-vegetarian counterparts.²⁷

Lp(a) concentrations in the present study represent a high-risk population.²⁸ This may be explained by the higher proportion of African Americans in this sample, as African Americans may have higher Lp(a) concentrations compared with Caucasians.²⁹ An evaluation of 532 359 patients found that an Lp(a) concentration > 50 mg/dL was common among patients.³⁰ This range roughly corresponds to the mean nmol/L Lp(a) concentration observed in the present study.

4.1 | Effect of weight loss on plasma Lp(a) concentrations

An energy restricted diet was found to independently reduce serum Lp(a) in those with baseline concentrations >20 mg/dL, but not <20 mg/dL.³¹ Further studies have found that weight loss may not

TABLE 4 Inflammatory and other cardiovascular indicators at baseline and 4-weeks

	Baseline ^a	Final ^a	Change ^b	P ^c
hs-CRP (mg/dL)	7.8 ± 6.4	5.4 ± 4.7	-30.7% (-2.4 ± 3.7)	0.001
Endothelin (pg/mL) ^d	2.2 ± 0.7	2.2 ± 0.8	0% (0.0 ± 0.7)	0.916
IL-6 (pg/mL) ^d	2.6 ± 1.4	2.0 ± 1.0	-23.1% (-0.6 ± 1.0)	0.001
TNF-α (pg/mL) ^d	2.0 ± 0.9	2.2 ± 0.9	10.0% (0.2 ± 0.6)	0.096
Lp-PLA ₂ (ng/mL) ^d	252.3 ± 136.3	210.7 ± 119.1	-16.4% (-41.6 ± 64.6)	0.001
Myeloperoxidase (pmol/L) ^e	124.1 ± 58.1	104.5 ± 53.6	-23.0% (-28.5 ± 66.1)	0.056
Fibrinogen (mg/dL) ^f	561.4 ± 112.2	530.1 ± 102.9	-5.6% (-31.3 ± 50.7)	0.004
NT-proBNP (pg/mL) ^d	65.2 ± 71.2	69.4 ± 75.9	6.2% (4.1 ± 23.2)	0.337
Total WBC (K/μL) ^d	6.3 ± 2.0	4.8 ± 1.3	-22.2% (-1.4 ± 1.1)	<0.0005
Neutrophils (K/μL) ^d	3.5 ± 1.4	2.5 ± 0.9	-28.6% (-1.0 ± 0.8)	<0.0005
Lymphocytes (K/μL) ^d	1.9 ± 0.7	1.6 ± 0.6	-15.8% (-0.3 ± 0.4)	<0.0005
Monocytes (K/μL) ^d	0.46 ± 0.12	0.38 ± 0.09	-15.2% (-0.07 ± 0.1)	<0.0005
Eosinophils (K/μL) ^d	0.18 ± 0.11	0.15 ± 0.11	-16.6% (-0.03 ± 0.07)	0.033
Basophils (K/μL) ^d	0.029 ± 0.016	0.024 ± 0.015	-17.2% (-0.005 ± 0.010)	0.016

Abbreviations: hs-CRP, high-sensitivity c-reactive protein; IL-6, interleukin-6; Lp-PLA₂, lipoprotein-associated phospholipase A2; NT-proBNP, N-terminal pro b-type natriuretic peptide; TNF-α, tumor necrosis factor-alpha; WBC, white blood cells.

^a Mean ± SD (n = 31 unless otherwise indicated).

^b Data indicated as % change (mean ± SD).

^c Paired samples t-tests for within-group comparisons of changes from baseline to final values.

^d n = 30 due to premature coagulation of samples.

^e n = 25 due to premature coagulation of samples.

^f n = 27 due to premature coagulation of samples.

independently reduce Lp(a) concentrations. A pooled analysis of cohorts found that as weight loss ensued, Lp(a) concentrations surprisingly increased.³² Baseline Lp(a) concentrations on average between the four cohorts analyzed were approximately 40 mg/dL, well above the >20 mg/dL threshold reported in the initial study.³¹ Other investigations examining the effect of weight loss on Lp(a) concentration have not demonstrated a relationship between these two variables.^{33,34} Interestingly, the emphasis on consuming plant-based foods, even with a calorie restricted diet, did not result in Lp(a) reductions compared with a calorie restricted red meat centered diet.³⁵ The plant-centered diet in this trial³⁵ still contained a significant number of calories derived from animal-based sources in addition to processed plant foods. Also, both diets contained similar quantities of dietary fiber, a measure of plant-food intake. Based on these weight loss trials, Lp(a) concentration is likely not influenced by weight reduction.

4.2 | Effect of diet on plasma Lp(a) concentrations

Other trials using diets emphasizing plant-based foods have not demonstrated similar results. A low-fat and low-saturated fat diet with an increased intake of fruits and vegetables interestingly increased Lp(a) concentrations.³⁶ Subjects consumed four to five servings of fruits or berries and five to six servings of vegetables daily for 5 weeks and all food was provided. It is important to note that subjects still consumed animal products throughout the intervention³⁶ which included dairy products and lean meats. The fiber content (40 g vs 51 g in the present study) was not as high as would be expected when consuming a higher quantity of plant-foods, and the number of fruits and vegetables did not meet the levels observed in the present study (11.8 servings of fruits and

16 servings of vegetables). Based on this data, it is probable that exclusively increasing fruit and vegetable intake is not sufficient to elicit reduced Lp(a) concentrations.

It has also been reported that a low-carbohydrate, high-fat diet (45% carbohydrate, 40% fat) may have a favorable impact on Lp(a) concentrations compared with a high-carbohydrate, low-fat diet (65% carbohydrate, 20% fat), although it is unclear as to what precisely was consumed on either of these diets.³⁷ In addition, the differences were small, as only a 2.17 mg/dL difference was observed between both groups, and baseline Lp(a) concentrations were <20 mg/dL. The Omni Heart Trial also found that replacing calories from carbohydrates and protein with unsaturated fats produced a smaller increase in Lp(a) comparatively, but both diets still elicited increased plasma Lp(a) compared with baseline. The differences between groups were also small at the end of the intervention (<4 mg/dL difference).³⁸

In individuals with low baseline Lp(a) concentrations (approximately 5.5 mg/dL), the consumption of copious saturated fat, cholesterol (derived from egg consumption) and polyunsaturated fat did not influence Lp(a) concentrations.¹³ Carbohydrate intake was low in this trial as well (39% to 46% carbohydrate as a percent of energy). While fat consumption does not appear to influence serum Lp(a) concentrations in the fasting state, a variety of fats may significantly increase postprandial, transient plasma Lp(a) concentrations over the course of 8 hours.³⁹ Investigators found that linoleic, oleic, palmitic, and stearic acid all resulted in significant transient increases in Lp(a) concentrations which closely tied to a proportional increase in triacylglycerol concentrations. While saturated fats, stearic acid and palmitic acid, appeared to have the greatest increase in serum Lp(a) compared with oleic acid and linoleic acid, this differing response did not reach statistical significance.

4.3 | Mechanisms contributing to reduced plasma Lp(a)

The observed reduction in Lp(a) in the present study may be due to decreased hepatic synthesis of apolipoprotein(a) and Apo-B. This may be in part due to decreased expression of the LPA gene. Since the LPA gene is almost exclusively expressed in the liver,⁴⁰ hepatic influences, including the production of *hs*-CRP and inflammatory cytokines, such as IL-6, may upregulate LPA gene expression.⁴¹ Indeed, those with inflammatory conditions may have increased Lp(a) concentrations compared with healthy controls.⁴²

Current data in our plant-based study supports this hypothesis, as reduced *hs*-CRP and IL-6 was observed. In contrast, previous studies utilizing plant-centered diets to reduce Lp(a) were unsuccessful, as animal products were still substantially consumed.^{35,36} Animal-based foods, including lean meat, can induce a postprandial inflammatory response, including increased *hs*-CRP and IL-6.⁴³ Pooled data of those consuming non-vegan, plant-based diets have shown reduced *hs*-CRP and IL-6,⁴⁴ although to a lesser extent compared with the present study (*hs*-CRP: -0.55 mg/dL vs -2.42 mg/dL, IL-6: -0.25 pg/mL vs -0.64 pg/mL). The elimination of animal products and processed foods completely on a defined, plant-based diet may be a more prudent dietary strategy to avoid potential fluctuations in inflammation. Thus, the fact that there were only minimally processed plant foods consumed during this dietary intervention may account for the observed reduction in serum Lp(a) concentrations that may be associated with reduced LPA gene expression. Further mechanistic research is needed to confirm this hypothesis.

4.4 | Strengths and limitations

The high dietary adherence and provision of all food to subjects supports the conclusion that the intervention likely fully accounted for the observed biochemical changes among the subjects. Furthermore, the study took place in an outpatient clinical setting with established patients providing a real-world example of a standard clinical practice. This study provides a model for the implementation of this intervention across other medical practices. In contrast, a limitation in the design of this study was the lack of a control group and the small sample size. A larger sample size and a control group would be needed to strengthen a causal relationship.

5 | CONCLUSION

A defined, plant-based diet has a favorable impact on Lp(a) and other atherogenic lipoproteins and particles. Lp(a) concentration was previously thought to be only minimally altered by lifestyle interventions. In this study, however, a defined plant-based diet resulted in a substantial reduction in Lp(a) in only 4 weeks. Further investigations are warranted to elucidate the specific mechanisms that contribute to reduced Lp(a) concentrations, which may include alterations in LPA gene expression mediated via hepatic inflammation.

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Conflict of interest

The authors declare no potential conflicts of interest.

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SUPPORTING INFORMATION

Additional supporting information may be found online in the Supporting Information section at the end of the article.

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7. In preparation for providing my expert opinions herein, I have reviewed vaccine breakthrough data to establish vaccine failure rates for all persons deemed 'fully vaccinated' according to CDC guidelines from all states publishing data, including New York. Vaccine breakthrough occurs when a 'fully vaccinated' person is confirmed to be infected by the SARS- CoV-2 virus using PCR molecular testing and the cycle threshold value is lower than or equal to 28. 'Fully vaccinated' is defined as a person who has received all inoculations in a series (Pfizer 2 inoculations, Moderna 2 inoculations, Johnson & Johnson 1 inoculation) and it has been at least 14 days since the final inoculation in the series.
8. I have been asked to review New York State vaccine breakthrough data for COVID inoculations to provide support for Dr. Baxter Montgomery's professional and informed opinion that the COVID-19 inoculations do not effectively prevent the spread of the SARS-CoV-2 virus.
9. In New York, between the dates of November 2021 and February 2022, I am able to confirm the following data for breakthrough infections among the 'fully vaccinated'. By November 2021, there were 137,380 total confirmed COVID breakthrough cases among the 'fully vaccinated'. By February 2022, that number had risen exponentially to 1,167,630 confirmed COVID breakthrough cases among the 'fully vaccinated'. This resulted in an increase of 1,030,250 new confirmed cases where the experimental COVID inoculations failed to prevent infection over a 3-month range of data collection amounting to a 749.9% increase in vaccine failure to prevent infection in only 3 months. Similarly, in November 2021, there were 9,044 confirmed COVID breakthrough hospitalizations among the 'fully vaccinated'. By February 2022, that number had risen exponentially to 39,593 confirmed COVID breakthrough hospitalizations among the 'fully vaccinated'. This resulted in an increase of 30,549 new confirmed hospitalizations where the experimental COVID inoculations failed

to prevent hospitalization over a 3-month range of data collection amounting to a 337.8% increase in vaccine failure to prevent hospitalization in only 3 months. With over 1 million confirmed vaccine breakthroughs and over 30,000 confirmed vaccine breakthrough hospitalizations over a 3-month range of data collection, it is impossible to objectively conclude that the experimental COVID inoculations are effective at preventing infection or hospitalization. The New York State Department of Health does not publish data regarding vaccine breakthrough death for analysis.

10. The statements and opinions made in this Affidavit are preliminary and I reserve the right to add to, amend or modify my opinions as more facts are provided during the course of any litigation of the claims by the Classes of Plaintiffs for which this affidavit is provided.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated this 19 day of April, 2022.


DR. HENRY EALY

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

Subscribed and sworn to (or affirmed) before me on this 19 day of April, 2022, by Dr. Henry Ealy, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Witness my hand and official seal.


Signature of Notary Public

[Affix Notary Seal]

