

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF RICHMOND

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MYMEONA DAVIDS, by her parent and natural guardian,  
MIAMONA DAVIDS, ERIC DAVIDS, by his parent and  
natural guardian MIAMONA DAVIDS, ALEXIS PERALTA,  
STACY PERALTA, by her parent and natural guardian,  
ANGELA PERALTA, LENORA PERALTA, by per parent and  
natural guardian ANGELA PERALTA, ANDREW HENSON,  
by his parent and natural guardian CHRISTINE HENSON,  
ADRIAN COLSON, by his parent and natural guardian  
JACQUELINE COLSON, SAMANTHA PIROZZOLO, by her  
parent and natural guardian SAM PIROZZOLO, FRANKLIN  
PIROZZOLO, by her parent and natural guardian SAM  
PIROZZOLO, IZAIYAH EWERS, by his parent and nature  
guardian KENDRA OKE,

Consolidated under  
Index No. 101105/14  
(DCM Part 6)  
(MARIN, J.S.C.)

Plaintiffs,

- against -

THE STATE OF NEW YORK, THE NEW YORK STATE  
BOARD OF REGENTS, THE NEW YORK STATE  
EDUCATION DEPARTMENT, THE CITY OF NEW YORK,  
THE NEW YORK CITY DEPARTMENT OF EDUCATION,  
JOHN AND JANE DOES 1-100, XYZ ENTITIES,

**ANSWER OF  
INTERVENOR/DEFENDANT  
NEW YORK CITY  
DEPARTMENT OF  
EDUCATION TO *WRIGHT*  
PLAINTIFFS' AMENDED  
COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

Defendants,

-and-

MICHAEL MULGREW, as President of the UNITED  
FEDERATION OF TEACHERS, Local 2, American Federation  
of Teachers, AFL-CIO,

Intervenor-Defendant,

-and-

SETH COHEN, DANIEL DELEHANTY, ASHLI SKURA  
DREHER, KATHLEEN FERGUSON, ISRAEL MARTINEZ,  
RICHARD OGNIBENE, JR., LONNETTE R. TUCK, and  
KAREN E. MAGEE, Individually and as President of the New  
York State United Teachers,

Intervenors-Defendants.

(Index No. 101105/14)

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JOHN KEONI WRIGHT; GINET BORRERO; TAUANA GOINS; NINA DOSTER; CARLA WILLIAMS; MONA PRADIA; ANGELES BARRAGAN;

Plaintiffs,

- against -

THE STATE OF NEW YORK; THE BOARD OF REGENTS OF THE UNIVERSITY OF THE STATE OF NEW YORK; MERRYL H. TISCH, in her official capacity as Chancellor of the Board of Regents of the University of the State of New York; JOHN B. KING, in his official capacity as the Commissioner of Education of the State of New York and President of the University of the State of New York;

Defendants

-and-

SETH COHEN, DANIEL DELEHANTY, ASHLI SKURA DREHER, KATHLEEN FERGUSON, ISRAEL MARTINEZ, RICHARD OGNIBENE, JR., LONNETTE R. TUCK, and KAREN E. MAGEE, Individually and as President of the New York State United Teachers,

Intervenors-Defendants,

-and-

PHILIP A. CAMMARATA and MARK MAMBRETTI,

Intervenors-Defendants,

-and-

NEW YORK CITY DEPARTMENT OF EDUCATION,

Intervenor-Defendant,

-and-

MICHAEL MULGREW, as President of the UNITED FEDERATION OF TEACHERS, Local 2, American Federation of Teachers, AFL-CIO,

Intervenor-Defendant.

(Index No. 1500641/14; Upstate Index No. A641-14) x

Intervenor/Defendant New York City Department of Education (“DOE”), by its attorney, ZACHARY W. CARTER, Corporation Counsel of the City of New York, as and for its answer to the *Wright* Plaintiffs’ Amended Complaint for Declaratory and Injunctive Relief (“complaint”), respectfully alleges as follows:

1. Denies the allegations set forth in paragraph “1” of the complaint and refers the Court to the New York Constitution for a full and accurate statement of its content.

2. Denies the allegations set forth in paragraph “2” of the complaint.

3. Denies the allegations set forth in paragraph “3” of the complaint.

4. Denies the allegations set forth in paragraph “4” of the complaint, except admits on information and belief, that Plaintiff John Keoni Wright has twin daughters named Kaylah and Kyler, who are New York public school students.

5. Denies the allegations set forth in of paragraph “5” of the complaint.

6. Denies the allegations set forth in paragraph “6” of the complaint, except admits that the *Wright* Plaintiffs seek to challenge the statutes set forth in the first sentence of paragraph “6” (“Challenged Statutes”).

7. Denies any facts alleged in paragraph “7” of the complaint, but admits upon information and belief, that the *Wright* Plaintiffs seek to proceed as set forth therein.

8. Denies the allegations set forth in paragraph “8” of the complaint, and affirmatively states that this lawsuit is venued in Richmond County.

9. Denies the allegations set forth in paragraph “9” of the complaint and refers the Court to C.P.L.R. §§ 3001 and 3017(b) for complete and accurate statements of their contents.

10. Denies the allegations set forth in paragraph "10" of the complaint except admits that Plaintiff John Keoni Wright purports to sue on behalf of himself and his minor children Kaylah and Kyler Wright.

11. Denies the allegations set forth in paragraph "11" of the complaint except admits that Plaintiff Ginet Borrero purports to sue on behalf of herself and her minor child Raymond Diaz, Jr.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "12" of the complaint.

13. Denies the allegations set forth in paragraph "13" of the complaint except admits that Plaintiff Nina Doster purports to sue on behalf of herself and her minor children Patience and King McFarlane.

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "14" of the complaint

15. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "15" of the complaint

16. Denies the allegations set forth in paragraph "16" of the complaint except admits that Plaintiff Angeles Barragan purports to sue on behalf of herself and her minor child Natalie Mendoza. As to paragraph "16(a)" of the complaint, denies the allegations except admits that Plaintiff Laurie Townsend purports to sue on behalf of herself and her minor child Nakia Townsend. As to paragraph "16(b)" of the complaint, denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein.

17. Denies the allegations set forth in paragraph "17" of the complaint and refers the Court to the N.Y. Education Law and N.Y. Constitution for a complete and accurate statement

concerning the responsibility of the State of New York in regard to the State's educational system.

18. Denies the allegations set forth in paragraph "18" of the complaint and refers the Court to the N.Y. Education Law for a complete and accurate statement concerning the responsibilities and structure of the Board of Regents.

19. Denies the allegations set forth in paragraph "19" of the complaint, and affirmatively state that the allegations against Merry H. Tisch were dismissed.

20. Denies the allegations set forth in paragraph "20" of the complaint, and affirmatively state that the allegations against John B. King, Jr. were dismissed.

21. Denies the allegations set forth in paragraph "21" of the complaint, and refers the Court to the referenced authorities as well as the N.Y. Education Law and N.Y. Education regulations for a complete and accurate statement of the State Defendants' responsibilities.

22. As to paragraph "22" of the complaint, denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the third sentence, and admits the allegations set forth in the first and second sentences.

23. Denies the allegations set forth in paragraph "23" of the complaint.

24. As to paragraph "24" of the complaint, denies the allegations, except admits that the New York Legislature enacted the Challenged Statutes, and further avers that those statutes have been materially amended.

25. Denies the allegations set forth in paragraph "25" of the complaint.

26. Denies the allegations set forth in paragraph "26" of the complaint.

27. Denies the allegations set forth in paragraph "27" of the complaint, and refers the Court to the cited decision for a complete and accurate statement of its contents and holdings.

28. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “28” of the complaint.

29. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “29” of the complaint.

30. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “30” of the complaint, except admits the allegations set forth in the first sentence.

31. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “31” of the complaint, except admits upon information and belief the first clause of the second sentence.

32. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “32” of the complaint.

33. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “33” of the complaint.

34. Denies the allegations set forth in paragraph “34” of the complaint.

35. Denies the allegations set forth in paragraph “35” of the complaint.

36. Denies the allegations set forth in paragraph “36” of the complaint.

37. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph “37” of the complaint.

38. Denies the allegations set forth in paragraph “38” of the complaint.

39. Denies the allegations set forth in paragraph “39” of the complaint and refers to the Court to the cited statute for a complete and accurate statement of its content and aver that the statutory scheme has been materially amended.

40. Denies the allegations set forth in paragraph "40" of the complaint and refers the Court to the cited statute for a complete and accurate statement of its content and avers that the statutory scheme has been materially amended.

41. Denies the allegations set forth in paragraph "41" of the complaint and refers the Court to the cite statute for a complete and accurate statement of its content and avers that the statutory scheme has been materially amended.

42. Denies the allegations set forth in paragraph "42" of the complaint,

43. Denies the allegations set forth in paragraph "43" of the complaint.

44. As the allegations set forth in paragraph "44" of the complaint, denies the allegations set forth in the third sentence and denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the first and second sentences.

45. Denies the allegations set forth in paragraph "45" of the complaint, and refers the Court to the cited statute and the applicable collective bargaining agreements for complete and accurate statements of their contents.

46. As to the allegations set forth in paragraph "46" of the complaint, denies the allegations set forth in the first and fourth sentences, and denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the second and third sentences.

47. Denies the allegations set forth in paragraph "47" of the complaint and refers the Court to the cited statute for a complete and accurate statement of its content.

48. Denies the allegations set forth in paragraph "48" of the complaint.

49. Denies the allegations set forth in paragraph "49" of the complaint and refers the Court to the cited statutes for complete and accurate statements of their contents, and avers that the statutory scheme has been materially amended.

50. Denies the allegations set forth in paragraph "50" of the complaint.

51. As to the allegations set forth in paragraph "51" of the complaint, denies the allegations set forth in the first sentence and denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the second sentence.

52. Denies the allegations set forth in paragraph "52" of the complaint.

53. Denies the allegations set forth in paragraph "53" of the complaint.

54. Denies the allegations set forth in paragraph "54" of the complaint, and refers the Court to the cited statute for a complete and accurate statement of its content.

55. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 55 of the Complaint.

56. As to the allegations set forth in paragraph "56" of the complaint, denies the allegations set forth in the first sentence and denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the balance of this paragraph.

57. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "57" of the Complaint.

58. Denies the allegations set forth in paragraph "58" of the complaint and refers the Court to the cited statute for a complete and accurate statement of its content.

59. Denies the allegations set forth in paragraph "59" of the complaint and refers the Court to the cited statute for a complete and accurate statement of its content.



60. Denies the allegations set forth in paragraph “60” of the complaint and refers the Court to the cited statutes for complete and accurate statements of their contents, and avers that the statutory scheme has been materially amended.

61. Denies the allegations set forth in paragraph “61” of the complaint and refers the Court to the cited statute and applicable collective bargaining agreements for complete and accurate statements of their contents.

62. As to the allegations set forth in paragraph “62” of the complaint, denies the allegations set forth in the first and second sentences, and denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the third sentence.

63. Denies the allegations set forth in paragraph “63” of the complaint.

64. Denies the allegations set forth in paragraph “64” of the complaint.

65. Denies the allegations set forth in paragraph “65” of the complaint.

66. Denies the allegations set forth in paragraph “66” of the complaint and refers the Court to the cited statutes for complete and accurate statements of their contents.

67. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “67” of the complaint. .

68. Denies the allegations set forth in paragraph “68” of the complaint and refers the Court to the cited statute and applicable collective bargaining agreements for complete and accurate statements of their contents.

69. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “69” of the complaint.

70. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “70” of the complaint, except admits upon information and

belief that the Rochester City School District implemented district-wide layoffs within the past decade.

71. Denies the allegations set forth in paragraph “71” of the complaint.

72. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “72” of the complaint.

73. Denies the allegations set forth in paragraph “73”.

74. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “74” of the complaint.

75. Denies the allegations set forth in paragraph “75” of the complaint.

76. Denies the allegations set forth in paragraph “76” of the complaint.

**DOE’S RESPONSE TO THE FIRST CAUSE OF ACTION**

77. DOE repeats its responses to the allegations set forth in paragraphs “1” to “76” of the complaint, as if set forth at length herein.

78. Denies the allegations set forth in paragraph “78” of the complaint.

79. Denies the allegations set forth in paragraph “79” of the complaint.

**DOE’S RESPONSE TO THE SECOND CAUSE OF ACTION**

80. DOE repeats its responses to the allegations set forth in paragraphs “1” to “76” of the complaint, as if set forth at length herein.

81. Denies the allegations set forth in paragraph “81” of the complaint.

82. Denies the allegations set forth in paragraph “82” of the complaint.

**DOE'S RESPONSE TO THE THIRD CAUSE OF ACTION**

83. DOE repeats its responses to the allegations set forth in paragraphs "1" to "76" of the complaint, as if set forth at length herein.

84. Denies the allegations set forth in paragraph "84" of the complaint.

85. Denies the allegations set forth in paragraph "85" of the complaint.

**FOR A FIRST DEFENSE:**

The complaint fails to state a cause of action upon which relief can be granted.

**FOR A SECOND DEFENSE:**

The Court lacks subject matter jurisdiction, because plaintiffs' causes of action are nonjusticiable.

**FOR A THIRD DEFENSE:**

Plaintiffs' complaint should be dismissed for mootness.

**FOR A FOURTH DEFENSE:**

Plaintiffs' complaint should be dismissed because the challenged statutes are constitutional.

**FOR A FIFTH DEFENSE:**

Plaintiffs' complaint should be dismissed because Plaintiffs have failed to join all necessary parties.

**FOR A SIXTH DEFENSE:**

Plaintiffs lack standing since none has alleged an injury arising from the facts underpinning an alleged cause of action.

**WHEREFORE**, Intervenor/Defendant DOE requests judgment dismissing the Amended Complaint and denying all relief requested therein, together with such other and further relief as the Court deems just and proper.

Dated: New York, New York  
July 18, 2018

ZACHARY W. CARTER  
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By:

  
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