

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND

----- X
MYMOENA DAVIDS, by her parent and natural guardian :
MIAMONA DAVIDS, ERIC DAVIDS, by his parent and :
natural guardian MIAMONA DAVIDS, ALEXIS :
PERALTA, by her parent and natural guardian ANGELA :
PERALTA, STACY PERALTA, by her parent and natural :
guardian ANGELA PERALTA, LENORA PERALTA, by :
her 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 natural guardian :
KENDRA OKE, on behalf of themselves and others :
similarly situated, :
:

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 1-100, :
:

Defendants, :

-and- :

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

Proposed Intervenor-Defendant :
:

----- X
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND

----- X
JOHN KEONI WRIGHT; GINET BORRERO; TAUANA:
GOINS; NINA DOSTER; CARLA WILLIAMS; MONA:

Index No. 101105/14

VERIFIED ANSWER

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.:

----- X

Intervenor-Defendant United Federation of Teachers ("UFT"), Local 2, American

Federation of Teachers, AFL-CIO, by its President Michael Mulgrew, through its attorneys

Stroock & Stroock & Lavan LLP and Adam S. Ross, Esq., answer the Verified Amended Complaint (the “Complaint”), dated November 13, 2014, of the above-captioned Plaintiffs John Keoni Wright, *et al.* (the “Plaintiffs”) as follows:

PRELIMINARY STATEMENT

1. The UFT admits that New York’s Constitution guarantees all children in the State a sound basic education and denies the remainder of the allegations set forth in Paragraph 1 of the Complaint but affirmatively states that, pursuant to N.Y. Education Law § 3012-d, there are teachers in New York who receive a rating of “ineffective” on their Annual Professional Performance Review.

2. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 2 of the Complaint, as Plaintiffs have neither defined nor explained what they mean by a “teacher’s quality”, “educational success” or “ineffective teacher”, but affirmatively states that an important factor in students receiving a sound basic education is teaching.

3. The allegations set forth in Paragraph 3 of the Complaint call for a legal conclusion to which no response is required but, to the extent they make an assertion of fact, the UFT denies them.

4. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 4 of the Complaint.

5. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 5 of the Complaint.

6. The allegations set forth in Paragraph 6 of the Complaint call for a legal conclusion to which no response is required but, to the extent they make an assertion of fact, the

UFT denies them. To the extent Plaintiffs purport to characterize the content of N.Y. Education Law §§ 2509, 2510, 2573, 2588, 2590, 3012, 3012-c, 3020 and 3020(a) (the “Challenged Statutes”), the Court is respectfully referred to the statutory provisions themselves as the best evidence of their content.

7. The allegations set forth in Paragraph 7 of the Complaint call for a legal conclusion to which no response is required but, to the extent they make an assertion of fact, the UFT denies them.

JURISDICTION AND VENUE

8. The allegations set forth in Paragraph 8 of the Complaint call for a legal conclusion to which no response is required.

9. The allegations set forth in Paragraph 9 of the Complaint call for a legal conclusion to which no response is required.

PARTIES

Plaintiffs

10. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 10 of the Complaint.

11. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 11 of the Complaint.

12. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 12 of the Complaint.

13. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 13 of the Complaint.

14. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 14 of the Complaint.

15. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 15 of the Complaint.

16. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 16 of the Complaint.

a) The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 16(a) of the Complaint.

b) The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 16(b) of the Complaint.

Defendants

17. The UFT admits the allegations set forth in Paragraph 17 of the Complaint.

18. The UFT admits the allegations contained in Paragraph 18 of the Complaint.

19. The UFT denies the allegations contained in Paragraph 19 of the Complaint and affirmatively states that the current Chancellor of the Board of Regents, Betty A. Rosa, is the head of the Board of Regents and presides over Regents meetings and appoints its committees.

20. The UFT denies the allegations set forth in Paragraph 20 of the Complaint and affirmatively states that the current Commissioner of Education and President of the University of the State of New York, MaryEllen Elia, has the obligation and authority to supervise and monitor all public schools and to assure that educational services are being provided in New York as required by law and regulation.

21. The allegations set forth in Paragraph 21 of the Complaint call for a legal conclusion to which no response is required but, to the extent they makes an assertion of fact, the UFT denies them.

BACKGROUND

22. The allegations set forth in Paragraph 22 of the Complaint call for a legal conclusion to which no response is required but the UFT admits that a sound basic education is the key to preparing children to be productive citizens and contribute to society. To the extent Plaintiffs purport to characterize N.Y. Const. Art. XI, §1 (the “Education Article”), this Court is respectfully referred to the Constitutional provision itself as the best evidence of its contents.

23. The allegations set forth in Paragraph 23 of the Complaint call for a legal conclusion to which no response is required but the UFT admits that teachers are an important “input” of a sound basic education.

24. The UFT admits that the New York Legislature enacted the Challenged Statutes. The UFT denies that the Challenged Statues confer permanent employment or prevent the removal of teachers. The remaining allegations in Paragraph 24 of the Complaint call for a legal conclusion to which no response is required but, to the extent they make an assertion of fact, the UFT denies them. To the extent Plaintiffs purport to characterize the content of the Challenged Statutes, this Court is respectfully referred to the statutory provisions themselves as the best evidence of their content.

25. The allegations set forth in Paragraph 25 of the Complaint call for a legal conclusion to which no response is required but, to the extent they make an assertion of fact, the UFT denies them.

26. The allegations set forth in Paragraph 26 of the Complaint call for a legal conclusion to which no response is required but, to the extent they make an assertion of fact, the UFT denies them.

I. TEACHER EFFECTIVENESS IS A NECESSARY INPUT TO A SOUND BASIC EDUCATION

27. The UFT denies knowledge or information sufficient to form a belief as to the Plaintiffs allegations set forth in Paragraph 27 of the Complaint, as Plaintiffs have neither defined nor explained what they mean by “effective teachers.” To the extent Plaintiffs purport to characterize the content of the Court of Appeals decision in *Campaign for Fiscal Equity, Inc. v. State (“CFE II”)*, 100 N.Y.2d 893, 909 (2003) or in unidentified studies, the Court is respectfully referred to the decision or the studies themselves as the best evidence of their content.

28. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 28 of the Complaint but affirmatively states that an important input in students receiving a sound basic education is teaching. To the extent Plaintiffs purport to characterize the content of the publication referenced therein, the Court is respectfully referred to the publication itself as the best evidence of its content.

29. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 29 of the Complaint. To the extent Plaintiffs purport to characterize the publication referenced therein, the Court is respectfully referred to the publication itself as the best evidence of its contents.

30. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 30 of the Complaint. To the extent Plaintiffs purport to

characterize the publication referenced therein, the Court is respectfully referred to the publication itself as the best evidence of its contents.

31. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 31 of the Complaint, as Plaintiffs have neither defined nor explained the terms “teacher quality” or “student success,” but affirmatively states that an important input in students receiving a sound basic education is teaching. To the extent Plaintiffs purport to characterize the publication referenced therein, the Court is respectfully referred to the publication itself as the best evidence of its contents.

32. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 32 of the Complaint. To the extent Plaintiffs purport to characterize the publication referenced therein, the Court is respectfully referred to the publication itself as the best evidence of its contents.

33. The UFT denies that the Challenged Statutes deprive New York students of a sound basic education or prevent the removal of teachers. The remainder of the allegations set forth in Paragraph 33 of the Complaint call for legal conclusion to which no response is required but, to the extent they make an assertion of fact, the UFT denies them.

II. THE TEACHER TENURE STATUTES CONFER PERMANENT EMPLOYMENT ON INEFFECTIVE TEACHERS

34. The UFT denies that Challenged Statutes grant “virtually permanent employment” “near-total immunity from termination” or “prevent students from receiving a sound basic education. The remainder of allegations set forth in Paragraph 34 of the Complaint call for a legal conclusion to which no response is required but, to the extent they make an assertion of fact, the UFT denies them. To the extent Plaintiffs purport to characterize N.Y.

Education Law §§ 2509, 2573, 3012 and 3012-c, the Court is respectfully referred to the statutory provisions themselves as the best evidence of their content.

35. The allegations set forth in Paragraph 35 of the Complaint call for a legal conclusion to which no response is required. To the extent Plaintiffs purport to characterize N.Y. Education Law § 3012(2), the Court is respectfully referred to the statutory provision itself as the best evidence of its content.

36. The UFT denies the allegations set forth in Paragraph 36 of the Complaint. To the extent Plaintiffs purport to characterize the publication referenced therein, the Court is respectfully referred to the publication itself as the best evidence of its content.

37. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 37 of the Complaint. To the extent Plaintiffs purport to characterize the publication referenced therein, the Court is respectfully referred to the publication itself as the best evidence of its content.

38. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 38 of the Complaint, and the UFT affirmatively states that New York Education Law has recently been amended to require new teachers to typically serve a probationary period of four years and further prevents them from obtaining tenure if they receive a rating of “ineffective” in their final year. The remaining allegations set forth in Paragraph 38 of the Complaint call for a legal conclusion to which no response is required.

39. The UFT denies the allegations set forth in Paragraph 39 of the Complaint and affirmatively state that New York Education Law § 3012-d is now the operative law with regard to the evaluation of teachers and principals through the Annual Professional Performance Review (“APPR”).

40. The UFT admits that the APPR provides teachers an annual rating of “highly effective,” “effective,” “developing,” or “ineffective” and that each school district negotiates the specific terms of their APPR plan. The UFT denies the remaining allegations set forth in Paragraph 40 of the Complaint and affirmatively states that New York Education Law § 3012-d is the operative law governing the APPR.

41. The UFT denies the allegations in the first sentence of Paragraph 41 of the Complaint and denies knowledge or information sufficient to form a belief as to the remaining allegations. To the extent Plaintiffs purport to characterize the publications referenced therein, the Court is respectfully referred to the publications themselves as the best evidence of their content.

42. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 42 of the Complaint. To the extent Plaintiffs purport to characterize the publications referenced therein, the Court is respectfully referred to the publications themselves as the best evidence of their content. The UFT denies the remaining allegations set forth in Paragraph 42 of the Complaint.

43. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 43 of the Complaint. To the extent Plaintiffs purport to characterize the publications referenced therein, the Court is respectfully referred to the publications themselves as the best evidence of their content. The UFT denies that the APPR is a “deficient and superficial means of assessing teacher effectiveness.”

44. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in first two sentences of Paragraph 44 of the Complaint. The UFT denies the remaining allegations set forth in Paragraph 44 of the Complaint.

45. The UFT denies knowledge or information sufficient to form a belief as to the statistical allegations set forth in Paragraph 45 of the Complaint. The UFT admits that teachers have a right to appeal an ineffective rating but the UFT denies the remaining allegations set forth in Paragraph 45 of the Complaint and affirmatively states that New York Education Law §3012-c is no longer operative with regard to the APPR, the operative law is now New York Education Law § 3012-d. To the extent Plaintiffs purport to characterize New York Education Law § 3012-c(5) or the publication referenced, the Court is respectfully referred to the statutory provision and the publication themselves as the best evidence of their contents.

46. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 46 of the Complaint. To the extent Plaintiffs purport to characterize the publication referenced therein, the Court is respectfully referred to the publication itself as the best evidence of its contents. The UFT denies the tenure confers permanent employment.

47. The UFT denies the allegations set forth in Paragraph 47 of the Complaint and affirmatively states that New York Education Law §3012-c is no longer operative with regard to the APPR, the operative provision is now New York Education Law §3012-d. To the extent Plaintiffs purport to characterize New York Education Law §§ 3012 and 3012-c or the publication referenced, the Court is respectfully referred to the statutory provision and the publication themselves as the best evidence of their contents. The UFT affirmatively states that New York Education Law was amended in 2015 to generally require new teachers to serve a four-year probationary period before a tenure determination can be made

48. The UFT denies the allegations set forth in Paragraph 48, except the UFT admits that a tenured teacher may only be terminated after a disciplinary hearing.

III. THE DISCIPLINARY STATUTES KEEP INEFFECTIVE, TENURED TEACHERS IN THE SCHOOL SYSTEM

49. The UFT denies the allegations set forth in Paragraph 49 of the Complaint and affirmatively states that teachers in New York City may be removed in accordance with the disciplinary process prescribed by New York Education Law §3020-a as modified by the collective bargaining agreement between the UFT and the Board of Education *or* in accordance with the provisions of New York Education Law §3020-b. To the extent Plaintiffs purport to characterize New York Education Law §§ 3020, 3020-a and 3012, the Court is respectfully referred to the statutory provisions themselves as the best evidence of their content.

50. The UFT denies the allegations set forth in Paragraph 50 of the Complaint.

51. The UFT denies the allegations set forth in the first sentence of Paragraph 51 of the Complaint and denies knowledge or information sufficient to form a belief as to the allegations set forth in the second sentence of Paragraph 51 of the Complaint.

52. The UFT denies the allegations set forth in the first sentence of Paragraph 52 of the Complaint and denies knowledge or information sufficient to form a belief as to the allegations set forth in the second sentence of Paragraph 52 of the Complaint. To the extent Plaintiffs purport to characterize the publication referenced therein, the Court is respectfully referred to the publication itself as the best evidence of its content.

53. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in the first two sentences of Paragraph 53 of the Complaint and affirmatively states that New York Education Law §3012-c is no longer the operative provision with regard to the APPR, the operative provision is now New York Education Law §3012-d. The remaining allegations set forth in Paragraph 53 of the Complaint call for a legal conclusion to which no response is required. To the extent Plaintiffs purport to characterize New York Education Law

§3012-c, the Court is respectfully referred to the statutory provision itself as the best evidence of its content.

54. The UFT admits that New York Education Law §3020-a imposes a three-year limit for bringing charges against a teacher but denies the remaining allegations set forth in Paragraph 54 of the Complaint. To the extent Plaintiffs purport to characterize the publication referenced therein, the Court is respectfully referred to the publication itself as the best evidence of its content.

55. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 55 of the Complaint. To the extent Plaintiffs purport to characterize the publication referenced therein, the Court is respectfully referred to the publication itself as the best evidence of its content.

56. The UFT denies the allegations set forth in the first sentence of Paragraph 56 of the Complaint, but admits that often termination of a tenured teacher can only occur following a hearing. The UFT denies knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 56 of the Complaint and affirmatively states that the publication referenced therein does not include any data from New York City disciplinary proceedings. To the extent Plaintiffs purport to characterize the publication referenced therein, the Court is respectfully referred to the publication itself as the best evidence of its content.

57. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 57 of the Complaint except the UFT admits that incompetency proceedings may include charges such as inability to control a class and failure to prepare required lesson plans. To the extent Plaintiffs purport to characterize the publication referenced

therein, the Court is respectfully referred to the publication itself as the best evidence of its content.

58. The UFT denies the allegations set forth in the first sentence of Paragraph 58 of the Complaint and denies knowledge or information sufficient to form a belief as to the remaining allegations.

59. The UFT denies the allegations set forth in Paragraph 59 of the Complaint. To the extent Plaintiffs purport to characterize New York Education Law § 3020-a, the Court is respectfully referred to the statutory provision itself as the best evidence of its content.

60. The allegations set forth in Paragraph 60 of the Complaint call for a legal conclusion to which no response is required. To the extent Plaintiffs purport to characterize New York Education Law §§ 3020 and 3020-a, the Court is respectfully referred to the statutory provisions themselves as the best evidence of their content.

61. The allegations set forth in the first two sentences of Paragraph 61 of the Complaint call for a legal conclusion to which no response is required. To the extent Plaintiffs purport to characterize New York Education Law §§ 3020, the Court is respectfully referred to the statutory provision itself as the best evidence of its content. The UFT denies the remaining allegations set forth in Paragraph 61 of the Complaint, except admits that the collective bargaining agreement between the UFT and the New York City Board of Education requires that the arbitrator be jointly selected by the UFT and the Board of Education.

62. The UFT denies that the disciplinary proceedings are futile and denies knowledge or information sufficient to form a belief as to the remaining allegations set forth in Paragraph 62 of the Complaint. To the extent Plaintiffs purport to characterize the publication referenced

therein, the Court is respectfully referred to the publication itself as the best evidence of its content.

63. The allegations set forth in Paragraph 63 of the Complaint call for legal conclusion to which no response is required but, to the extent they make an assertion of fact, the UFT denies them.

64. The allegations set forth in Paragraph 64 of the Complaint call for legal conclusion to which no response is required but, to the extent they make an assertion of fact, the UFT denies them.

65. The allegations set forth in Paragraph 65 of the Complaint call for legal conclusion to which no response is required but, to the extent they make an assertion of fact, the UFT denies them.

IV. THE LIFO STATUTES REQUIRE THE STATE TO RETAIN MORE SENIOR TEACHERS AT THE EXPENSE OF MORE EFFECTIVE TEACHERS

66. The allegations set forth in Paragraph 66 of the Complaint call for a legal conclusion to which no response is required. To the extent Plaintiffs purport to characterize New York Education Law § 2585, the Court is respectfully referred to the statutory provision itself as the best evidence of its content.

67. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 67 of the Complaint.

68. The UFT denies the allegations set forth in Paragraph 68 of the Complaint.

69. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 69 of the Complaint. To the extent Plaintiffs purport to characterize the publication referenced therein, the Court is respectfully referred to the publication itself which is the best evidence of its content.

70. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 70 of the Complaint.

71. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 71 of the Complaint.

72. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 72 of the Complaint.

73. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 73 of the Complaint.

74. The UFT denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 74 of the Complaint. To the extent Plaintiffs purport to characterize the publication referenced therein, the Court is respectfully referred to the publication itself as the best evidence of its content.

75. The allegations set forth in Paragraph 75 of the Complaint call for a legal conclusion to which no response is required but, to the extent they make an assertion of fact, the UFT denies them.

76. The allegations set forth in Paragraph 76 of the Complaint call for a legal conclusion to which no response is required but, to the extent they make an assertion of fact, the UFT denies them.

FIRST CAUSE OF ACTION

77. The UFT denies the allegations set forth in Paragraph 77 of the Complaint except as admitted in Paragraphs 1 through 76 above.

78. The allegations set forth in Paragraph 78 of the Complaint call for a legal conclusion to which no response is required but, to the extent they make an assertion of fact, the UFT denies them.

79. The UFT denies that tenure provides a guarantee of lifetime employment and compensation and denies knowledge or information sufficient to form a belief as to the remaining allegations set forth in Paragraph 79 of the Complaint.

SECOND CAUSE OF ACTION

80. The UFT denies the allegations set forth in Paragraph 80 of the Complaint except as admitted in Paragraphs 1 through 79 above.

81. The allegations set forth in Paragraph 81 of the Complaint call for a legal conclusion to which no response is required but, to the extent they make an assertion of fact, the UFT admits them.

82. The UFT denies that discipline proceedings are unlikely to result in the removal of teachers and denies knowledge or information sufficient to form a belief as to the remaining allegations set forth in Paragraph 82 of the Complaint.

THIRD CAUSE OF ACTION

83. The UFT denies the allegations set forth in Paragraph 83 of the Complaint except as admitted in Paragraphs 1 through 82 above.

84. The allegations set forth in Paragraph 84 of the Complaint call for a legal conclusion to which no response is required but, to the extent they make an assertion of fact, the UFT denies them.

85. The allegations set forth in Paragraph 85 of the Complaint call for a legal conclusion to which no response is required but, to the extent they make an assertion of fact, the UFT denies them.

FIRST AFFIRMATIVE DEFENSE

86. Plaintiffs have failed to state a cognizable cause of action under the Education Article upon which relief can be granted. Specifically, Plaintiffs have failed to allege an action attributable to the State that is the direct cause of the harm alleged and have failed to plead with specificity how students have been denied a sound basic education.

SECOND AFFIRMATIVE DEFENSE

87. The Complaint and the causes of action alleged therein are precluded by the political question doctrine.

THIRD AFFIRMATIVE DEFENSE

88. Plaintiffs' claims with regard to the provisions of the Education Law calling for seniority-based layoffs should be dismissed as they are not ripe for adjudication.

FOURTH AFFIRMATIVE DEFENSE

89. Plaintiffs' claims have been rendered moot by subsequent amendments to the Education Law.

FIFTH AFFIRMATIVE DEFENSE

90. Plaintiffs' claims are not yet ripe for adjudication due to subsequent amendments to the Education Law.

WHEREFORE, Intervenor-Defendant demands judgment (a) dismissing the Complaint and denying all relief requested therein; (b) costs and disbursements of this action; and (c) such other and further relief as the Court may deem just and proper.

Dated: New York, New York
July 18, 2018

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VERIFICATION

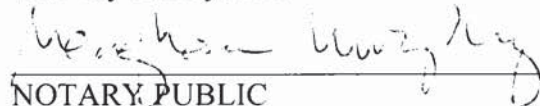
STATE OF NEW YORK)
 :SS.
COUNTY OF NEW YORK)

MICHAEL MULGREW, being duly sworn, deposes and says: that he is President of Intervenor-Defendant UNITED FEDERATION OF TEACHERS, LOCAL 2, AFT, AFL-CIO in the above captioned proceeding; he has read the foregoing Verified Answer, and knows the contents thereof; that the Verified Answer is true of his own knowledge, except as to matters herein stated to be alleged on information and belief, and that as to those matters he believes them to be true.


MICHAEL MULGREW

Dated: New York, New York
July 18, 2018

Sworn to before me on the
18th day of July 2018


NOTARY PUBLIC

MURPHY MEAGHEAN
Notary Public, State of New York
Registration No: 02MU6182961
Commission Expires March 10, 2012