

STATE OF NEW YORK
APPELLATE DIVISION: FIRST DEPARTMENT

----- x
In the Matter of the Application of

MICHAEL P. THOMAS,

Petitioner-Respondent,

-and-

LETITIA JAMES, Public Advocate for the
City of New York, and CLASS SIZE
MATTERS,

Petitioners-Interveners,

For a Judgment under Article 78 of the
Civil Practice Law and Rules

- against -

NEW YORK CITY DEPARTMENT OF
EDUCATION and CARMEN FARIÑA,
Chancellor of the New York City
Department of Education,

Respondents-Appellants.
----- x

**NOTICE OF CROSS-
TO DECLARE A STAY
PENDING APPEAL
OR FOR A
DISCRETIONARY
STAY**

New York County Index
No. 100538/14

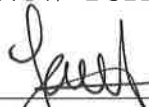
PLEASE TAKE NOTICE, that upon the annexed
affirmation of Jane L. Gordon, dated August 6, 2015, the affirmation of
Robin F. Singer, dated August 6, 2015, the affidavit of Linda Hill, sworn
to August 14, 2014, the memorandum of law in support of the cross-
motion, and upon all the papers and proceedings heretofore had herein,

respondents-appellants will cross-move this Court, at a term to be held at 25 Madison Avenue, New York, New York at 10:00 a.m. on August 10, 2015, for an order (1) granting a declaration that there is an automatic stay in effect pursuant to CPLR 5516(a) and denying the motion by petitioners-interveners to declare that no stay is in effect, or (2) for a discretionary stay pursuant to CPLR 5519(c) pending the determination of the appeal, together with such other and further relief as to the Court seems just and proper.

Dated: New York, New York
August 6, 2015

ZACHARY W. CARTER
Corporation Counsel
of the City of New York
Attorney for Respondents-
Appellants
100 Church Street, Room 6-193
New York, New York 10007

By:



Jane L. Gordon
Senior Counsel
(212) 356-0846

To: Mark Ladov, Esq.
New York Lawyers for the Public Interest
Counsel for Intervener Class Size Matters
151 West 30th Street, 11th floor
New York, New York 10001
(212) 244-4662

Michael P. Thomas
Pro se Petitioner
342 East 92nd Street, Apt. 5W
New York, New York 10128
(917) 545-4254

Laura D. Barbieri, Esq.
Advocates for Justice
Counsel for Intervener Letitia James and Class Size Matters
225 Broadway, Suite 1902
New York, New York 10007
(212) 285-1400

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : FIRST DEPARTMENT

-----x

In the Matter of the Application of

MICHAEL P. THOMAS,

Petitioner-Respondent,

-and-

LETITIA JAMES, Public Advocate for the
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-----x

JANE L. GORDON, an attorney admitted to practice in the
State of New York and of counsel to **ZACHARY W. CARTER**,
Corporation Counsel of the City of New York, attorney for the
respondents-appellants (“the Department of Education”) in this

**AFFIRMATION IN
SUPPORT**

New York County
Index No. 100438/14

proceeding, hereby affirms that the following statements are true, under penalty of perjury:

1. I am a Senior Counsel in the Appeals Division of the Office of the Corporation Counsel. I represent the Department in its appeal to this Court from the order of the Supreme Court, New York County (Moulton, J.), entered April 23, 2015. A copy of the Department's May 22, 2015 Notice of Appeal, along with the lower court's decision, is annexed as Exhibit A. I am familiar with the facts and circumstances based on my review of my office's files.

2. I submit this affirmation (a) in opposition to the motion by the petitioners for a declaration that no automatic stay pursuant to CPLR 5516(a) is in effect; and (b) in support of the Department's cross-motion for an order granting either a declaration confirming the existence of an automatic stay, or a discretionary stay pursuant to CPLR 5519(c), pending the determination of the appeal.

3. As explained more fully in our memorandum of law in support of the cross-motion (Exhibit B), New York State Education Law §2590-h requires every New York public school to have a School Leadership Team ("SLT"). These teams, comprised of volunteer parents,

administrators, and teachers, assist in the evaluation and assessment of a school's educational programs and their effects on student achievement. See <http://schools.nyc.gov/NR/rdonlyres/147C2C2A-3258-4C02-9A08-5C117C82C7D8/0/SLTBrochure2015.pdf>.

4. Thomas, a retired teacher, asked to attend an SLT meeting at I.S. 49 in Staten Island. As Thomas had no affiliation with the school, school principal, Linda Hill, denied his request. Thomas then commenced this proceeding to obtain an order that his exclusion from the meeting violated the Open Meetings Law, Public Officers Law §100 et seq. Supreme Court determined that, because SLTs “entail a public body performing governmental functions,” they are subject to the Open Meetings Law, must be open to the public, and must conform to the procedural requirements applicable to such meetings.

5. Should this Court recognize a statutory stay or grant a discretionary stay to maintain the status quo pending appeal, the Department will expeditiously prosecute the appeal. We intend to perfect this appeal by October 5, 2015, for the Court's December 2015 Term.

6. In support of the cross-motion, we also rely on the affidavit of Linda Hill, sworn to August 15, 2014 and annexed as Exhibit C. The Hill affidavit was submitted in support of the City's answer and contains the procedural history and pertinent regulations. We also rely on the affirmation of Robin F. Singer, dated August 6, 2015 (Exhibit D). Ms. Singer is Senior Associate Counsel for the Department of Education, and her affirmation explains the numerous steps that must be taken to implement the lower court's directive that SLTs be subject to the Open Meetings Law.

WHEREFORE, it is respectfully requested that this Court declare that, pursuant to CPLR 5519(a) (1), there is an automatic stay of the order of the Supreme Court, New York County, entered April 23, 2015, pending resolution of this appeal. In the alternative, this Court should grant a discretionary stay pursuant to CPLR 5519(c).

Dated: New York, New York
August 6, 2015



JANE L. GORDON
Senior Counsel
(212) 356-0846

EXHIBIT A

2014-018798
L. Mbaye
R. Dearing

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the Matter of the Application of
MICHAEL P. THOMAS,

Petitioner,

NOTICE OF APPEAL

Index No. 100538/14

and

LETITIA JAMES, Public Advocate for the City of
New York, and CLASS SIZE MATTERS,

Petitioners-Interveners,

For an Order and Judgment Pursuant to Article 78 of
the Civil Practice Law and Rules,

-against-

NEW YORK CITY DEPARTMENT OF
EDUCATION, and CARMEN FARIÑA, Chancellor
of the New York City Department of Education,


Respondents.

PLEASE TAKE NOTICE that respondents New York City Department of
Education and Carmen Fariña hereby appeal to the Appellate Division of the Supreme Court,
First Department, from the decision and judgment (one paper) of the Hon. Peter H. Moulton,
herein dated April 16, 2015 and entered in the office of the Clerk of New York County on
April 23, 2015. This appeal is taken from each and every part of said decision and judgment
(one paper) as well as from the whole thereof.

Dated: New York, New York
May 22, 2015

ZACHARY W. CARTER,
Corporation Counsel of the City of New York,
Attorney for Respondents
New York City Department of Education
and Carmen Fariña,
100 Church Street,
New York, New York 10007.
(212) 356-2500

NEW YORK
COUNTY CLERK'S OFFICE
MAY 22 2015
NOT COMPARED
WITH COPY FILE

By: 
RICHARD P. DEARING
Chief, Appeals

TO:

MICHAEL P. THOMAS,
Pro Se,
343 East 92nd Street, #5W,
New York, New York 10128.
(917) 545-4254

ADVOCATES FOR JUSTICE,
Attorneys for the Petitioner-Intervener Letitia James,
225 Broadway, Suite 1902,
New York, New York 10007.
(212) 285-1400

NEW YORK LAWYERS FOR THE PUBLIC INTEREST,
Attorneys for Petitioner-Intervener Class Size Matters,
151 West 30th St., 11th Floor,
New York, New York 10001.
(212) 244-4664

CLERK
County of New York

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----- x
In the Matter of the Application of
MICHAEL P. THOMAS

Petitioner,

**PRE-ARGUMENT
STATEMENT**

Index No. 100538/2014

and

LETITIA JAMES, Public Advocate for the City of New
York, and CLASS SIZE MATTERS,

Petitioners-Intervenors,

For a Judgment Pursuant to Article 78 of the Civil Practice
Law and Rules

-against-

NEW YORK CITY DEPARTMENT OF EDUCATION,
and CARMEN FARIÑA, Chancellor of the New York City
Department of Education

Respondents.

----- x
PLEASE TAKE NOTICE that the respondents, for their pre-argument

statement, allege as follows:

1. The full names of the original parties and the names, addresses and
telephone numbers of counsel for respondents and petitioner are as follows:

Respondents: New York City Department of Education
Carmen Fariña, Chancellor of the New York City Department of Education

Attorney for Respondents:

ZACHARY W. CARTER
Corporation Counsel of the
City of New York
100 Church Street
New York, New York 10007

Petitioner: Michael P. Thomas

Attorney for Petitioner:

Michael P. Thomas, *pro se*
343 E. 92nd St. #5W
New York, NY 10128
(917) 545-4254

Petitioner-Intervener:

Letitia James, Public Advocate for the City of New York

Attorney for Petitioner-Intervener:

Laura D. Barbieri
225 Broadway, Ste. 1902
New York, NY 10007
(212) 285-1400

Petitioner-Intervener:

Class Size Matters

Attorney for Petitioner-Intervener:

Mark Ladov & J. McGregor Smyth
New York Lawyers for the Public Interest
151 W. 30th St., 11th Fl.
New York, NY 10001
(212) 244-4664

There has been no change in the parties or their counsel in this proceeding.

2. This is an appeal from a judgment of the Supreme Court, New York County, (Moulton, J.) entered in the office of the Clerk of New York County on April 23, 2015 and served on April 24, 2015. No other appeal is pending in this action.

3. This is a CPLR Article 78 proceeding in which petitioner seeks an order (1) declaring that a School Leadership Team ("SLT") meeting is a meeting of a public body which must be open to the general public pursuant to the Open Meetings Law; (2) finding that respondents violated the Open Meetings Law by not permitting Petitioner to attend an SLT meeting at Intermediate School 49 on April 1, 2014; (3) ordering Respondents to participate in a training session concerning the obligations imposed by the Open Meetings Law; and (4) awarding costs, fees, and disbursements.

4. The Court below found that SLT meetings entail a public body performing governmental functions and, therefore, were subject to the Open Meetings Law.

5. Respondents seek reversal of this judgment on the grounds that SLTs are not public bodies subject to the Open Meetings Law because they operate only in an advisory capacity and have no authority to make final decisions or implement their decisions.

Dated: New York, New York
May 22, 2015

Yours, etc.,

ZACHARY W. CARTER
Corporation Counsel of the
City of New York
Attorney for Respondents
100 Church Street
New York, N.Y. 10007
(212) 356-2500

By: 
RICHARD P. DEARING
Chief, Appeals

FA
4/16/15
ES

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

Index Number : 100538/2014

PART 50

THOMAS, MICHAEL P.

vs
NYC DEPARTMENT OF EDUCATION

Sequence Number : 001

ARTICLE 78

INDEX NO. _____

MOTION DATE _____

MOTION SEQ. NO. _____

The following papers, numbered 1 to _____, were read on this motion to/for _____

Notice of Motion/Order to Show Cause — Affidavits — Exhibits _____ | No(s) _____

Answering Affidavits — Exhibits _____ | No(s) _____

Replying Affidavits _____ | No(s) _____

Upon the foregoing papers, it is ordered that this motion is

*Decided in accordance with the
written decision of Judge Peter H. Moulton*

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE
FOR THE FOLLOWING REASON(S):

RECEIVED
APR 21 2015
GENERAL CLERK'S OFFICE
NYS SUPREME COURT - CIVIL

FILED
APR 23 2015
COUNTY CLERK'S OFFICE
NEW YORK

Dated: 4/16/15

HON. PETER H. MOULTON _____, J.S.C.
J.S.C.

1. CHECK ONE: CASE DISPOSED NON-FINAL DISPOSITION
2. CHECK AS APPROPRIATE: MOTION IS: GRANTED DENIED GRANTED IN PART OTHER
3. CHECK IF APPROPRIATE: SETTLE ORDER SUBMIT ORDER
- DO NOT POST FIDUCIARY APPOINTMENT REFERENCE

Supreme Court of the State of New York
New York County: Part 50

-----X
MICHAEL P. THOMAS,

Petitioner,

and

Index No.:
100538/2014

LETITIA JAMES, Public Advocate for
the City of the York, and
CLASS SIZE MATTERS,

Petitioner-Interveners

For an Order and Judgment Pursuant to Article
78 of the Civil Practice Law and Rules

-against-

NEW YORK CITY DEPARTMENT OF EDUCATION, and
CARMEN FARIÑA, Chancellor of the New York
City Department of Education,

Respondents.

-----X
Peter H. Moulton, J.S.C.

In this Article 78 proceeding petitioner Michael Thomas seeks an adjudication that meetings of School Leadership Teams at New York City Public Schools are meetings of "public bodies" that must be open to the general public pursuant to the Open Meetings Law (POL § 100 et seq). Intervener petitioners Letitia James, the Public Advocate for the City of New York, and Class Size Matters, a not-for-profit that advocates for smaller class sizes in New York City and the rest of the nation, seek similar relief. Respondents are the City's Department of Education ("DOE") and the Chancellor

of the DOE.

Under state law and DOE regulation, every New York City Public School must have a School Leadership Team ("SLT"). As discussed at greater length below, SLTs are composed of school administrators, teachers and parents who are charged with developing the school's Comprehensive Education Plan and with other tasks involving collaborative decision-making at schools.

Petitioners argue that the SLT meetings meet all the criteria for meetings specified in the Open Meetings Law and so should be open to members of the public.

In response, respondents argue that SLTs play a limited advisory role in school governance and therefore are not public bodies subject to the law. Respondents argue that DOE therefore has the power to close such meetings to the general public.

As there is no objection to the intervention motion, the interveners are granted leave to intervene and their papers are part of the record before the court.

BACKGROUND

Petitioner Michael P. Thomas ("Thomas"), who is representing himself pro se, is a retired teacher. In March 2014 he wrote to the SLT chairperson at IS 49 on Staten Island to seek permission to attend an upcoming SLT meeting on April 1, 2014 at the school. After initially receiving a green light in email correspondence

dated March 18, 2014, he was informed by the chairperson the next day that he would not be allowed to attend the meeting. According to this second email, the SLT's by-laws provided that only members of the "school community" are allowed to attend SLT meetings. It is undisputed that Thomas has no affiliation with IS 49. Despite the second email, Thomas attempted peacefully to gain entry to the April 1 meeting and was peacefully rebuffed. Thomas probably was not surprised at this development as he had previously attempted to attend an SLT meeting at another public school in the City and was met with the same response. The intervenor petitioners point out that the closure of SLT meetings to the public is a City-wide phenomenon.

In order to determine whether SLT meetings should be open to the general public, it is first necessary to look at the statutory and regulatory framework that creates SLTs and defines their mission.

DOE is a school board organized under the State Education Law. In 2002 its structure was amended to provide for thirteen board members, the majority appointed by the mayor, who under the board's by-laws would be known as the Panel for Educational Policy. The preamble to the by-laws provides that the "governance structure" of the City School District of the City of New York includes SLTs:

The Panel for Educational Policy is a part of the governance structure responsible for the City School District of the City of New York, subject to the laws of the State of New York

and the regulations of the State Department of Education. Other parts of the structure include the Chancellor, superintendents, community school boards, principals, and school leadership teams. Together this structure shall be designated as the Department of Education of the City of New York.

(Available at <http://schools.nyc.gov> [emphasis added].)

SLTs must be established in every public school pursuant to New York Education Law § 2590-h, Commissioner's Regulation 100.11 and the Chancellor's Regulation A-655. Pursuant to Education Law § 2590-h(15)(b-1)(i) each school's SLT is responsible for developing an annual school Comprehensive Education Plan ("CEP"). A CEP sets forth a school's goals, needs and strategies for the coming school year. The Chancellor is required to ensure that each school's CEP is "easily accessible" to the public including through the DOE's website. The school's principal must consult with the SLT in formation of the school's budget, and the SLT and the principal must work together to insure to align the budget to the CEP. (See Education Law §§ 2590-h(15)(b-1)(i); 2590-r(b).) SLTs also must participate in DOE decisions to close the SLT's school or to co-locate other schools in the SLT's school's building. (See Mulgrew v Board of Education, 75 AD3d 412.)

Chancellor's Regulation A-655¹ was promulgated to ensure the formation of SLTs in the City's schools in conformance with

¹The Chancellor's Regulation is available at <http://schools.nyc.gov>.

Education Law § 2590-h. The regulation provides, inter alia, that there are three mandatory members of an SLT: the school's principal, the parent-teacher association president, and the United Federation of Teachers Chapter Leader. The minimum number of SLT members is 10 and the maximum number is 17, but the regulation provides that the SLT's roster of parents and faculty must be balanced. The regulation further provides that SLT meetings must take place on school or DOE premises and be scheduled at a time that parents can attend. Finally, and significantly, the regulation states that "[n]otice of meetings must be provided in a form consistent with the open meetings law." (Education Law § 2590-h (b-1)(iii).) This means that SLT meetings must be announced to the public at least a week in advance. (POL § 104.) The required announcement is not limited to the school's "community," however that term is defined.

DISCUSSION

The Legislative Declaration that begins the Public Officers Law states in part:

It is essential to the maintenance of a democratic society that the public business be performed in an open and public manner and that the citizens of this state be fully aware of and able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy.

(POL § 100.)

A "meeting" is defined in the Open Meetings Law as "the official convening of a public body for the purpose of conducting public business." (POL § 102(1).) A "public body" is defined in relevant part as:

any entity, for which a quorum is required in order to conduct public business and which consists of two or more members, performing a governmental function for the state or for any agency or department thereof... .

(POL § 102(2).)

It is undisputed that SLTs have more than two members, require a quorum, and are meant to advance the mission of DOE, an agency of the state. The principal dispute between the parties concerns whether SLTs are performing a governmental function. "[N]ot every entity whose power is derived from state law is deemed to be performing a governmental function." (Matter of Perez v City University of New York, 5 NY3d 522, 528.) In determining if an entity created by the state is a "public body" the court must examine

the authority under which the entity was created, the power distribution or sharing model under which it exists, the nature of its role, the power it possesses and under which it purports to act, and a realistic appraisal of its functional relationship to affected parties and constituencies.

(Matter of Smith v City University of New York, 92 NY2d 707, 713.)

In Perez the Court of Appeals held that the Open Meetings Law applied to the Hostos College Senate and the Senate's Executive

Committee. Hostos is of course part of the City University of New York. The Perez Court recognized that the Hostos College Senate had been charged with a number of the responsibilities delegated by the state legislature to the CUNY Board, and that the Senate and its executive committee performed functions of "both advisory and determinative natures which are essential to the operation and administration of the college." (Perez, supra, 5 NY3d at 530.) Similarly, in Smith the Court of Appeals held the Open Meetings Law applies to meetings of the LaGuardia Community College Association, an organization comprised of administrators, faculty members and students that, among other tasks, collected and disbursed student activity fees.

In both Perez and Smith the Court of Appeals recognized that decisions made at meetings of organizations associated with publicly funded schools are governmental decisions subject to the Open Meetings Law.

Under the factors set forth in Smith and Perez, SLT meetings entail a public body performing governmental functions. Accordingly, SLT meetings are subject to the Open Meetings Law.

First, SLTs are established pursuant to the Education Law, which gives them a role in school governance. DOE's own by-laws specify that SLTs are part of the "governance structure" of New York City's Schools. The public's interest in SLT meetings is demonstrated by the fact that announcement of such meetings must be

made in accordance with the Open Meetings Law.

Second, this court must also examine the "power distribution or sharing model under which [alleged public body] exists, the nature of its role, the power it possesses and under which it purports to act, and a realistic appraisal of its functional relationship to affected parties and constituencies." (Smith, supra, 92 AD2d at 713.) Consideration of these factors also leads to the conclusion that SLT meetings are subject to the Open Meetings Law. SLTs play a crucial iterative role in developing CEPs and ensuring that CEPs are aligned with the school's budget. A principal must consult with her school's SLT in developing a CEP. If the principal and her SLT cannot agree on the contours of the annual CEP, then the District Superintendent may resolve the difference. (See Chancellor's Regulation A-655(II)(4), (6).) However, the SLT must have input into the CEP's development. In December 2007 the DOE issued a prior version of Regulation A-655 which gave principals in New York City final decision making authority over the CEP. The State Education Commissioner ruled that the regulation was in derogation of Education Law § 2590-h(15)(b-1), because it stripped the SLTs of their "basic, statutorily mandated authority" to develop the CEP. (Appeal of Pollicino, New York State Education Commissioner's Decision No.

15,838.)²

The CEP is an important blueprint at each school. It describes annual goals concerning student achievement, teacher training, parent involvement, and compliance with federal law -- including Title I. The CEP also includes "action plans" to achieve those goals. As shown by the Commissioner's decision in Pollicino, the role of an SLT in formulating its school's CEP is one of decision maker. In fulfilling this role the SLT acts in conjunction with, and not subordinate to, the school's principal. If it is fulfilling its statutory role, a school's SLT is not a mere advisor to the principal. SLTs are also stakeholders and participants in school closings. These SLT activities touch on the core functions of a public school. The proper functioning of public schools is a public concern, not a private concern limited to the families who attend a given public school.³

Accordingly, the respondents' determination that SLT meetings are not subject to the Open Meetings Law is arbitrary and capricious and contrary to law. In light of this holding, it is not necessary to reach the intervenor petitioners' claim under New York Education Law § 414. Petitioners have offered no authority

²Appeal of Marie Pollicino, Commissioner's Decision No. 15,838, available at www.counsel.nysed.gov/Decisions.

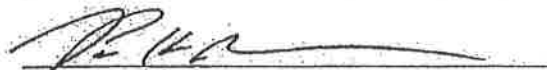
³For the reasons stated herein, this court is not persuaded by the decision of the Supreme Court in Portelos v Board of Education, 2013 NY Misc LEXIS 5170.

that would empower this court to order that DOE personnel receive "training sessions" on the Open Meeting Law, and so that prayer for relief is denied.

CONCLUSION

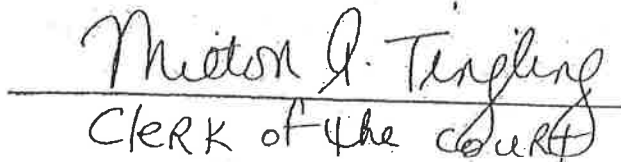
For the reasons stated it is Ordered and Adjudged that respondents' failure to open School Leadership Team Meetings to the general public pursuant to the Open Meetings Law is arbitrary and capricious and contrary to law. The parties shall contact chambers at hkingo@nycourts.gov concerning a briefing schedule on the question of whether reasonable attorneys' fees should be awarded pursuant to POL § 107(2). This constitutes the decision and judgment of the court.

DATE: April 16, 2015



J.S.C.

HON. PETER H. MOULTON
J.S.C.



Clerk of the Court

FILED
APR 23 2015
COUNTY CLERK'S OFFICE
NEW YORK

Index No. 100538/2014

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Thomas, Michael P.

Plaintiff,

-against-

New York City Dept. of Education

Defendants.

DECISION AND JUDGMENT

Mark Ladov, Esq.
NEW YORK LAWYERS FOR THE PUBLIC INTEREST
151 W. 30th St, 11th Floor
New York, NY 10001
Attorneys for Interveners - Petitioners

FILED
APR 23 2015 11 AM
AT N.Y. CO. CLERK'S OFFICE

AFFIDAVIT OF SERVICE ON ATTORNEY BY MAIL

STATE OF NEW YORK, COUNTY OF NEW YORK, SS:

Kim Paulk being duly sworn, deposes and says:

That on the 22nd day of May 2015 she served the annexed Notice of Appeal

upon:

MICHAEL P. THOMAS
343 East 92nd Street, #5W
New York, New York 10128

ADVOCATES FOR JUSTICE
225 Broadway, Suite 1902,
New York, New York 10007

NEW YORK LAWYERS FOR THE PUBLIC INTEREST
151 West 30th St., 11th Floor,
New York, New York 10001

being the addresses theretofore designated by each of the above for that purpose, by depositing a copy of the same, enclosed in a first class postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service, within the State of New York.


KIM PAULK

Sworn to before me this
22nd day of May, 2015


NOTARY PUBLIC

22nd Sworn to before me, this
day of May, 2015
Notary Public, State of New York
JACQUELINE GORDON
No. 01GO8148185
Qualified in Kings County
Commission Expires July 3, 2018

INDEX NO. 100538/2014

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the Matter of the Application of
MICHAEL P. THOMAS,
Petitioner,

and

LETITIA JAMES, Public Advocate for the City of
New York, and CLASS SIZE MATTERS,

Petitioners-Interveners,

For an Order and Judgment Pursuant to Article 78
of the Civil Practice Law and Rules,

-against-

NEW YORK CITY DEPARTMENT OF
EDUCATION, and CARMEN FARIÑA,
Chancellor of the New York City Department of
Education,

Respondents.

NOTICE OF APPEAL

ZACHARY W. CARTER

*Corporation Counsel of the City of New York,
Attorney for Respondents
New York City Department of Education
and Carmen Fariña,
100 Church Street,
New York, New York 10007.*

*Of Counsel: Richard P. Dearing
Tel: (212) 356-2500
Law Manager No. 2014-018798*

Due and timely service is hereby admitted.

New York, N.Y., 2015

..... Esq.

Attorney for.....

EXHIBIT B

STATE OF NEW YORK
APPELLATE DIVISION : FIRST DEPARTMENT

-----X
In the Matter of the Application of
MICHAEL P. THOMAS,

Petitioner-Respondent,

-and-

LETITIA JAMES, Public Advocate for the City
of New York, and CLASS SIZE MATTERS,

Petitioners-Interveners,

For a Judgment under Article 78 of the Civil
Practice Law and Rules

- against -

NEW YORK CITY DEPARTMENT OF
EDUCATION and CARMEN FARIÑA,
Chancellor of the New York City Department of
Education,

Respondents-Appellants.
-----X

**MEMORANDUM OF LAW IN SUPPORT
OF THE CROSS-MOTION**

CECELIA CHANG
JANE L. GORDON
of Counsel

August 6, 2015

ZACHARY W. CARTER
*Corporation Counsel
of the City of New York*
Attorney for Respondents-
Appellants
100 Church Street
New York, New York 10007
212-356-0846
jgordon@law.nyc.gov

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Internet Resources

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PRELIMINARY STATEMENT

The lower court's holding here embraces a novel interpretation of the reach of the Open Meetings Law that extends the law to purely advisory School Leadership Teams, in conflict with *Portelos v Bd. of Educ.*, 2013 N.Y. Misc. Lexis 5170 (Sup. Ct. N.Y. Co. Nov. 4, 2013). Given the novelty of the legal issue, the lack of consensus in the lower courts, the significance of the precedent, and the sea change in the status quo that will alter day-to-day operations of New York City's 1,800-plus public schools, recognition of a statutory stay pursuant to CPLR 5519(a), or the granting of a discretionary stay pursuant to CPLR 5519(c), is warranted.

The New York City Department of Education serves 1.1 million public school students in more than 1,800 schools. See <http://schools.nyc.gov/AboutUs/default.htm>. Without a stay, more than 1,800 individual School Leadership Teams ("SLTs") will have to implement many new procedures consistent with the Open Meetings Law by the start of the new school year on September 9, 2015, a Herculean task that includes, *inter alia*, devising a safety plan to allow the public into the schools for these meetings, training each individual

SLT to comply with the law's requirements, and the prospect that these meetings will be recorded and made public, or live streamed. That upends the status quo and imposes a tremendous financial and operational burden on the Department of Education and each school's SLT. All those efforts will also have been for naught should the Department prevail on this appeal.

Thomas is a retired teacher who has no connection with I.S. 49 in Staten Island, and does not even live in that borough. Yet he nonetheless asserts a right to attend its School Leadership Team meetings, contending that they are subject to New York Public Officer's Law § 103(a). This test case is intended to collaterally challenge *Matter of Portelos v New York City Bd. of Educ.*, 2013 N.Y. Misc. Lexis 5170 (Sup. Ct. N.Y. Co. Nov. 4, 2013), which also targeted the SLT meetings at I.S. 49.

In *Portelos*, the Supreme Court reasoned that excluding a teacher who was no longer part of the school community from the SLT meetings did not violate the Open Meetings Law because the SLT plays an advisory role, its authority is limited and circumscribed, and it is therefore not a "public body" under the law. *Id.* The Supreme Court

here disagreed, finding that the team's volunteer parents and school staff constitute a "public body" under the law that conducts "public business."

At issue now is a motion by Thomas and interveners Class Size Matters and Letitia James for a declaration that the automatic stay the Department invoked pursuant to CPLR §5519(a) (1) was unjustified, and that the Department must immediately apply the multi-layered procedures of the Open Meetings Law to these SLT meetings. As Department of Education attorney Robin F. Singer explains in her affirmation (Exhibit D to the cross-motion), the Supreme Court's order is not self-executory because implementing it would require numerous procedures and extensive trainings. Although we believe that the automatic stay was properly invoked here, the Court need not reach that issue, because Singer's affirmation also makes a compelling case for a discretionary stay pursuant to CPLR §5519(c), particularly because the Department intends to expedite this appeal and perfect it for the December 2015 Term of the Court in order to obtain a speedy decision on the merits.

Consequently, the Court should grant the cross-motion either by declaring that a §5519(a) (1) stay is in effect or, alternatively, by granting a discretionary stay pursuant to CPLR 5519(c) pending the determination of the appeal.

STATEMENT OF THE CASE

A. School Leadership Teams

As described in Singer’s affirmation, SLTs are school-based committees that consult with and advise the principal of a Department of Education school, make recommendations concerning student achievement, and provide a plan concerning the educational goals of the school, known as the Comprehensive Educational Plan (“CEP”). Aside from the three mandatory SLT members—the school principal, the president of the school’s parent association, and the chapter leader of the teachers’ union—other members are volunteers who represent groups within the school community, such as parents and school staff. Although younger students may serve on SLTs, a minimum of two student members is required for each high school SLT.

The purpose of an SLT is to “create a structure for school-based decision-making and shape the path to a collaborative culture.” *See*

Chan. Reg. A-655 at § I.¹ Using a discussion and consensus-based model, SLTs assist the school administration in evaluating and assessing a school's educational programs and their effect on student achievement. *Id.* SLTs make recommendations concerning educational policy and create educational goals for the school, which are incorporated into the CEP. Chan. Reg. A-655 at §§ II (A) (1), (2).

SLTs provide advice and make recommendations that guide the principal and administration in making decisions. The principal is responsible for creating the school-based budget and must solicit input from the SLT so that the CEP is aligned with the school-based budget. *See* Chan. Reg. A-655 at ¶ II(A)(2). The CEP and the budget must be submitted to the Superintendent, along with the principal's explanation of their alignment, and the Superintendent is responsible for reviewing and approving the budget and certifying that the CEP and budget are aligned. *Id.* at § II (A) (5). The principal and school administration are responsible for the implementation of the CEP and the school budget. *See Id.* at §§ II(A)(2), (5); *see also* N.Y. Educ. Law 2590i(i).

¹ The Chancellor's Regulations are annexed as Exhibit A to the Affidavit of Linda Hill, which is annexed to the cross-motion as Exhibit C.

Chancellor's Regulation A-655 also requires SLTs to develop bylaws addressing various issues to provide "clear direction" about SLT responsibilities. *See* Chan. Reg. A-655 at §XII. The I.S. 49 SLT bylaws expressly state that SLT meetings are only open to members of the school community: "The regularly scheduled team meetings will be open to members of the school community. The school community shall consist of parents of children currently attending the school, staff and liaisons to the school," meaning community education council members. *See* I.S. 49 SLT Bylaws, annexed to Hill Aff, as Exhibit "D," at Article III, § 3.

B. This Proceeding

Thomas attempted to attend the April 1, 2014 meeting of the I.S. 49 SLT. Although he was initially advised that he could attend the meeting, the following day he was advised that the SLT bylaws specifically allow only members of the school community to attend SLT meetings. In order to create standing for this legal challenge, Thomas went to I.S. 49 on April 1, 2014 specifically to be denied entry to the SLT meeting. He then commenced this proceeding.

C. The Court's Decision

The Supreme Court determined that SLTs are “public bodies” with governmental functions that must comply with the Open Meetings Law because they are established pursuant to the New York State Education Law, “which gives them a role in school governance” (Decision, at 7). The Court rested its decision on the following factors: (1) the public has an interest in SLT business because the announcement of SLT meetings, under the Education Law, must be made in accordance with the Open Meetings Law; (2) SLTs “play a crucial iterative role in developing CEPs and ensuring that CEPs are aligned with the school’s budget”; and (3) SLTs are “stakeholders” and “participants” in school closings (*id.* at 7-9). Addressing *Portelos* in a one-sentence footnote, the Court stated it was “not persuaded” by the decision (*id.* at n. 3)

ARGUMENT

THE PETITIONERS' MOTION SHOULD BE DENIED AND THE DEPARTMENT'S CROSS-MOTION GRANTED

This Court should deny the main motion and grant the Department's cross-motion in light of the novelty of the legal question involved, the serious disagreement reflected in the two Supreme Court

decisions addressing the issue, and the decision's far-reaching, immediate impact on the day-to-day operations of the Department's more than 1,800 SLTs—actions that will be rendered unnecessary, and will have to be revoked, should the Department prevail on its appeal.

A. The Court's Decision is Executory.

CPLR 5519(a) (1) provides that the taking of an appeal by the Department “stays all proceedings to enforce the judgment or order appealed from pending the appeal” This statute expresses a public policy to protect municipalities from irreparable loss of time and money while appeals are pending. *See, Summerville v. City of New York*, 97 N.Y.2d 427, 433-434 (2002) (“Our holding also fosters the public policy underlying CPLR 5519(a) (1)—to stabilize the effect of adverse determinations on governmental entities and prevent the disbursement of public funds pending an appeal that might result in a ruling in the government's favor”).

The scope of the automatic stay of CPLR 5519 (a) (1) is limited to the executory directions of the judgment or order appealed from which command a person to do an act. *Matter of Village of Chestnut Ridge v. Town of Ramapo*, 99 A.D.3d 928, 930 (2d Dep't 2012); *Matter of Nile W.*,

64 A.D.3d 717, 719 (2d Dep't 2009); *State v. Town of Haverstraw*, 219 A.D.2d 64, 65-66 (2d Dep't 1996) ("Mandatory injunctions are automatically stayed because in commanding the performance of some affirmative act they usually result in a change in the status quo. A prohibitory injunction, on the other hand, is one that operates to restrain the commission or continuance of an act and to prevent a threatened injury, thereby ordinarily having the effect of maintaining the status quo").

The result of the lower court's order undeniably upends the status quo and obligates the Department to implement many new procedures in order to comply with it. As explained in Singer's affirmation, this would include allowing the general public and news media into every public school on demand, even if children are present. It would require the Department to train more than 1,800 SLTs—comprised of volunteer members of the school community, including students—in the requirements of the Open Meetings Law, including when and how to go into executive session, how to conduct meetings in conformity with parliamentary procedure, how to prepare and distribute minutes, and

even the prospect of live streaming and the recording their meetings for public distribution.

In short, the court's order commands the Department to conduct SLTs in accordance with the Open Meetings Law. This would involve an extensive change in the way those meetings are currently conducted, directs the performance of acts in the future, and is not self-executing. Accordingly, the automatic stay pursuant to CPLR 5519(a) (1) is available. *Chestnut Ridge*, 99 A.D.3d at 930 ("provision of the judgment which directed the Town Planning Board to prepare an environmental impact statement was executory in nature and, therefore, subject to the statutory stay pursuant to CPLR 5519(a) (1)").

The movants seek to vacate the automatic stay asserted by the Department on the ground that CPLR 5591(a) (1) is not applicable because the lower court's order is prohibitory, self-executing, and does not order the City to "do anything" (Memo in Support of Motion, at 4-5). The Singer affirmation definitively dispels that contention. CPLR 5519(a) (1) serves to protect government agencies from exactly the kind of irreparable loss of time and money that would result here if the judgment were enforced while this appeal is pending, *Summerville v.*

City of New York, 97 N.Y.2d at 433-434. The order here is not self-executing, as extensive procedures would need to be implemented at great cost to the Department. As a result, the statutory stay provision set forth in CPLR 5519(a) applies.

Petitioners' argument that the lower court's order "does not direct any affirmative action" (Memo in Support of Motion, at 5) is form over substance, because the Open Meetings Law cannot be applied to SLT meetings unless the way SLTs currently operate is completely overhauled. The only reason the order does not direct affirmative action is because Thomas never asked for injunctive relief, which is essentially what movants try to obtain now through their motion. Indeed, their argument that they will suffer "irreparable harm" (*id.* at 7-9) confirms this strategy.

B. Alternatively, a Discretionary Stay Should Issue.

Solely in the alternative, should this Court determine that CPLR 5519(a) (1) does not automatically stay the order appealed from, we respectfully request that the Court grant a stay in the exercise of its discretion pursuant to CPLR 5519(c). There are serious practical

consequences to the lower court's decision here that further support the need for a stay pending appeal.

Unless the order is stayed, the Department will have to train the members of these teams in each of the City's 1,800 schools, including the student members, concerning the numerous procedures applicable to the Open Meetings Law—all before the start of the new school year on September 9, 2015. Given the more than 1,800 schools in the City's public school system, each with its own SLT, that is a daunting, impracticable task that would ultimately be a complete waste of time and resources if the Department prevails on this appeal.

Requiring the Department to comply with the Open Meetings Law pending the appeal will also place the City's SLTs at odds with SLTs in other jurisdictions and will undermine the State's important interest in uniformity in the law's application. For example, Rochester's manual for its School-Based Planning Teams indicates that those meetings are open only to members of the school community. *See* <http://www.rcsdk12.org/cms/lib04/NY01001156/Centricity/Domain/4/SBPT%20Manual%202014-2015.pdf>. The same policy is applied by the Great Neck public school system on Long Island. *See*

<https://www.greatneck.k12.ny.us/GNPS/Pages/SDMPlan.pdf>. The New York City Charter School Center also advises that the Open Meetings Law does not apply to the SLT meetings of charter schools, either. http://www.nyccharterschools.org/sites/default/files/resources/operations_memo_ii_oml_fa.pdf, at 2. The lower court's decision creates different rules for the City's public schools.

The movants' vague assertion that a stay pending appeal would cause unspecified "irreparable harm" (Memo in Support, at 8), is insufficient to show that the equities tip in their favor. Since SLTs were first created more than 20 years ago, they have never been subject to the Open Meetings Law, and there is no credible evidence of irreparable harm. Thomas and all members of the public have access to substantial information about I.S. 49 and every other New York City public school. Extensive information is publicly available on a city-wide and borough-wide basis, and also for each individual school. *See*, <https://reportcards.nysed.gov/schools.php?district=800000042056&year=2011>. Individual school budgets are also available on line. *See, e.g.*, <http://schools.nyc.gov/AboutUs/funding/schoolbudgets/fy16SchoolBudgetOverview.htm?schoolcode=R049>.

In addition, there are required public meetings that provide information about matters affecting the public schools and where the general public may be heard. Meetings of the Panel for Educational Policy are open to the public and its schedule is publicly available. See <http://schools.nyc.gov/AboutUs/leadership/PEP/default.htm>. Joint public hearings for school closures are also public. See N.Y. Educ. Law § 2590-h(2-a)(d). Consequently, if Thomas, or any other member of the public, wants to learn about or comment on these matters, there is ample opportunity to do so pending this appeal.

In contrast, our cross-motion demonstrates that, without a stay, the Department must undertake an enormous project that will involve allowing the general public and media access to school buildings whenever SLT meetings take place, even when children are present. Student SLT members can be identified, recorded, and their images published. This will not only implicate privacy considerations; it will also jeopardize student safety, and New York recognizes an “explicit and compelling public policy to protect children . . . particularly in an educational setting.” *Matter of Binghamton City Sch. Dist. (Peacock)*, 33 A.D.3d 1074, 1076 (3d Dep’t. 2006). Even putting aside the tremendous

administrative and financial costs of implementing the lower court's decision, the equities—directly affecting the safe and unimpeded public education of more than one million schoolchildren—certainly favor the Department's position here.

C. The Department is Likely to Prevail on Appeal.

The Open Meetings Law requires only “public bodies” that conduct “public business” to open their meetings to the general public. SLTs operate solely in an advisory capacity and have no authority to make final decisions, and, thus, are not public bodies that transact public business. Rather, they are advisory committees that consult and provide recommendations on various educational matters, and do not have the power to transact public business, as the Court in *Portelos* recognized.

Movants exaggerate the powers of the SLT in an attempt to portray the SLT's duties as governmental functions (Memo in Support, at 3). They argue that SLTs set school goals, needs and strategies and “ensure” that the budget is aligned with the schools CEP (*id.*). These allegations are simply erroneous, and were rejected in *Portelos*. SLTs act in a solely advisory capacity and, therefore, do not “transact public

business” and are not subject to the Open Meetings Law. *Perez v. City Univ. of N.Y.*, 5 N.Y.3d 522 (2005) (essentially advisory body with no final decision-making authority on public matters falls outside the scope of the Open Meetings Law).

The movants also maintain that, because SLTs develop CEPs, they are necessarily subject to the law (Memo in Support, at 12). New York Education Law, however, clarifies the purely advisory nature of an SLT’s purview. New York Education Law § 2590-h, which gives SLTs the responsibility to develop CEPs, has as its explicit purpose to “balance[] participation by parents with participation by school personnel in *advising* in the decisions devolved to schools pursuant to sections [2590]-i and [2590]-r of this article” N.Y. Educ. Law § 2590-h(15)(b)(i) (emphasis supplied). Other subsections of the same provision similarly underscore the advisory nature of the SLT, providing that “. . . the principal . . . propose[s] a school-based . . . budget, after *consulting* with members of the [SLT] and *soliciting input* . . . on budget priorities from all members of the school community” New York Education Law § 2590-r(b)(i) (emphasis supplied).

State regulations governing SLTs envision a collaborative process involving only a school's parents, teachers, and administrators; there is no indication that the public at large should be involved. See <http://www.p12.nysed.gov/part100/pages/10011.html>. That language, coupled with the diametrically opposed decisions here and in *Portelos*, confirm that the outcome of this appeal is not a forgone conclusion, as the movants argue (Memo in Support, at 12-13).

By imposing the requirements of the Open Meetings Law on SLTs, the lower court's unprecedented decision alters a status quo that has existed for more than two decades. The decision unsettles the longstanding practice and policy that has governed SLTs since their inception, requires that more than 1,800 SLTs be trained with new procedures and rules, and represents a substantial cost to the Department. The decision creates a reasonably grounded conflict with *Portelos*. It raises genuinely important legal and policy questions that go to the heart of the SLT's mandate. Implementing the decision also poses genuine safety issues for the City's students, because the City's public schools are never open to the general public while children are present.

For all these reasons, this Court should issue an order (1) declaring that there is in effect an automatic statutory stay pursuant to CPLR 5519(a) (1) denying the main motion; (2) in the alternative to such a declaration, granting a discretionary stay pursuant to CPLR 5519(c) pending the determination of this appeal; and (3) granting such other and further relief as this Court may deem just and proper.

CONCLUSION

The Court should deny the main motion and grant the Department's cross-motion.

Dated: New York, NY
August 6, 2015

Respectfully submitted,

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of Counsel

EXHIBIT C

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----- x
In the Matter of the Application

MICHAEL P. THOMAS,

Petitioner,

For a Judgment under Article 78 of the Civil Practice Law
and Rules

-against-

NEW YORK CITY DEPARTMENT OF EDUCATION
and CARMEN FARIÑA, Chancellor of the New York City
Department of Education,

Respondents
----- x

**AFFIDAVIT OF LINDA
HILL IN SUPPORT OF
RESPONDENTS'
VERIFIED ANSWER**

Index No. 100538/2014
Hon. Peter H. Moulton

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

LINDA HILL, being duly sworn deposes and says:

1. I am the Principal of Berta Dreyfus Intermediate School 49 ("I.S. 49"), a New York City Department of Education ("DOE") intermediate school, which provides instruction for students in grades six through eight, and is located at 101 Warren Street, Staten Island, New York. I have been the principal of this school for almost ten years, since March 2005. As principal, I am the instructional leader of the school and am responsible for overseeing the school's operations, including creating the school-based budget and serving on the School Leadership Team as a mandatory member to discuss school policies and goals that promote student achievement.

2. I submit this affidavit in support of the Respondent DOE's Verified Answer in response to the Verified Petition submitted by Michael Thomas ("Petitioner"). I base the statements made in this affidavit on personal knowledge, discussions with DOE employees and School Safety Agents, and my review of DOE records.

3. I have been informed by counsel that Petitioner has filed a Verified Petition pursuant to Article 78 of the Civil Practice Law and Rules challenging my decision to refuse to allow him to attend a School Leadership Team meeting that took place at IS 49 on April 1, 2014.

4. As principal, one of my responsibilities is to serve as a mandatory member of the I.S. 49 School Leadership Team. Pursuant to Chancellor's Regulation A-655 (a copy of which is annexed as Exhibit A), the School Leadership Team is composed of the three mandatory members – me (as principal), the Parent Association President, and the United Federation of Teachers Chapter Leader. There are also seven non-mandatory members on the SLT, who represent the following constituencies: teachers and parents. Exh. A, Section III.

5. The SLT, a committee comprised of representative groups within the school community, discusses educational matters in the school and establishes goals for the following school year. The groups represented on the SLT are: administrators, teachers, and parents. The SLT discusses educational policies, consults on a host of issues, such as school safety plans and the selection of administrators, and develops the Comprehensive Educational Plan ("CEP"), which sets forth the school's educational goals and priorities for the following academic year. Working in a collaborative manner, through discussion and consensus, the SLT evaluates school programs and their effect on student achievement. See Exh. A, Sections I and II.A.

6. As principal, I am responsible for the day-to-day operation of the school and for creating the school-based budget, and, along with my administration, for implementing the

goals in the CEP and the budget. The SLT ensures that the budget is aligned with the CEP. After it has been developed by the SLT, the CEP is submitted to the community superintendent, along with my written explanation justifying that the school-based budget is aligned with the CEP, and the superintendent is responsible for approving the budget and for certifying that the budget is aligned with the CEP. If a dispute arises concerning whether the budget is aligned with the CEP, the superintendent makes a determination on this issue, and then provides directives concerning any changes that need to be made. Exh. A, Section II.A.

7. In addition to developing the CEP, the School Leadership Team discusses important and confidential issues affecting the school. For example, the SLT consults on the appointment of a principal or assistant principal candidate to the school. During this process, SLT members are given candidates' confidential personnel records and information. In addition, the SLT discusses confidential information relating to school security, such as the School Safety Plan.

8. In mid-March 2014, I received a letter from Petitioner, who presented himself as a retired mathematics teacher who was not a member of the school community, requesting permission to attend the School Leadership Team meeting scheduled to take place on April 8, 2014. I forwarded this letter to SLT Co-Chair Victoria Trombetta ("Ms. Trombetta") for a response. A copy of Petitioner's letter is annexed hereto as Exhibit "B"

9. Ms. Trombetta responded to Mr. Thomas in an e-mail dated March 18, 2014, informing him that he could attend the meeting. She also informed him that the meeting had been changed from April 8 to April 1, 2014 at 4:00 p.m. A copy of that email is annexed hereto as Exhibit "C".

10. However, after Ms. Trombetta sent the March 18th email to Mr. Thomas, she discussed her response with me, and asked whether individuals who are not members of the school community can attend SLT meetings. I told her that I did not think so, but suggested that she review the SLT By-Laws. I believe that she did, as she then realized that the By-Laws limit attendance at SLT meetings to members of the school community. The By-Laws state (Article III, Section 3):

The regularly scheduled team meetings will be open to members of the school community. The school community shall consist of parents of children currently attending the school, staff and liaisons to the school (i.e., CEC representatives). Members of the school community, who are not team members, may request speaking time at meetings to discuss specific topics. All such requests must be submitted in writing to the Chairperson or liaison, at least one week in advance of the scheduled meeting.

A copy of those by-laws is annexed hereto as Exhibit "D."

11. Ms. Trombetta then sent Petitioner an email dated March 19, 2014, informing him that, in fact, he would not be permitted to attend the School Leadership Team meeting because the SLT By-laws prohibit anyone who is not a member of the school community from attending SLT meetings. A copy of that email is annexed hereto as Exhibit "E."

12. Petitioner responded by email dated March 19, 2014, telling Ms. Trombetta that he "under[stood] completely" and that the "bylaws are consistent with DOE policy." In the email, Petitioner further stated that he wished to "challenge that policy in court," and, in order to have standing to do so, he must "be denied entrance onsite." Petitioner wrote, "I would like to come to I.S. 49 on April 1 and have security at the front entrance write on a copy of your latest email that I was 'denied entry.' Nobody, except the security officer, will ever know I was there!" A copy of Petitioner's email is annexed hereto as Exhibit "F."

13. In advance of the April 1st SLT meeting, I informed the School Safety Agents at the school building entrance that Petitioner might seek admission to the SLT meeting, and that he should be denied admittance since he is not a member of the school community. The day after the SLT meeting, Level III Agent Meyer and School Safety Agent Wall, who were on duty on April 1st, informed me that Petitioner had come to the school at approximately 4 p.m. that day and had asked to be admitted to the SLT meeting, but was denied admission, pursuant to my instructions, because he was not a member of the school community.


LINDA HILL

Sworn to before me this
15 day of August, 2014.


NOTARY PUBLIC

ANNA MARIA SAMSEL
NOTARY PUBLIC STATE OF NEW YORK
NO. 01SA6250209
QUALIFIED IN RICHMOND COUNTY
COMMISSION EXPIRES OCTOBER 24, 2015

EXHIBIT A



Regulation of the Chancellor

Category: **STUDENTS**

Issued: 03/24/10

Number: **A-655**

Subject: SCHOOL AND DISTRICT LEADERSHIP TEAMS

Page: 1 of 2

SUMMARY OF CHANGES

This regulation supersedes Chancellor's Regulation A-655 dated December 3, 2007.

Changes:

- The SLT is responsible for developing the school's Comprehensive Educational Plan (CEP) and ensuring that it is aligned with the school-based budget. (Page 1, Section II.A.1)
- SLTs must use a consensus-based decision-making process as their primary means of decision-making. (Page 7, Section VIII.)
- The principal is responsible for developing the school-based budget, after consulting with the SLT, and ensuring that it is aligned with the CEP. (Page 1, Section II.A.2.)
- To ensure the alignment of the CEP and the school-based budget, any member of the SLT may request (on behalf of the SLT) the Galaxy Table of Organization Report up to two times per semester and, in response, the principal shall provide this report within 5 school days. In addition, any member may obtain from the DOE website the Galaxy Budget Allocations, which are posted when allocations are issued for the new fiscal year, and the Galaxy Table of Organization Summary Reports, which are posted at the beginning of each academic year. (Page 1, Section II.A.3.)
- The principal determines that the school-based budget is aligned with the CEP and sends a written justification to the superintendent. (Page 1, Section II.A.5.)
- SLT members, other than the principal, may provide a written response to the justification within 10 school days if they reach a consensus that they disagree with the principal's justification that the school-based budget is aligned with the CEP, and that the principal's proposed budget is inconsistent with the goals and policies set forth in the CEP. The superintendent must then make a determination. (Page 2, Section II.A.6.)
- SLT members, other than the principal, may dispute any decision made by the principal where members of the SLT (other than the principal) reach a consensus that the decision is inconsistent with the goals and policies set forth in the school's existing CEP, by submitting a written objection to the community or high school superintendent. The superintendent shall provide a written response to the SLT and the principal within 10 school days of receiving the initial complaint, which response shall include the information reviewed and the basis of the superintendent's decision regarding the dispute. (Page 2, Section II.A.8.)
- If the SLT cannot reach agreement on the CEP, it should seek assistance from the District Leadership Team (DLT), and if that is not successful, then the community or high school superintendent. The community or high school superintendent shall try to facilitate consensus among the SLT. If no agreement can be reached following this assistance, then the superintendent makes the final determination on the CEP. However, the superintendent makes the determination only as a last resort, if all of the aforementioned methods of facilitating consensus among the members of the SLT have failed. (Page 1, Section II.A.4; also Page 7, Section VIII.)



Regulation of the Chancellor

Category: **STUDENTS**

Issued: 03/24/10

Number: **A-655**

Subject: **SCHOOL AND DISTRICT LEADERSHIP TEAMS**

Page: 2 of 2

- Support is provided to SLTs and DLTs by parent engagement staff or superintendents. (Page 6, Section VI; also Page 7, Section VIII.) The final CEP and the school-based budget shall be posted on the DOE's or the school's official website and a copy shall be provided to each SLT member upon request at the school. (Page 2, Section II.A.9.)
- SLT meetings, which must take place at least once a month during the school year, must take place on school or DOE premises. (Page 7, Section VII.)
- Notice of SLT meetings must be provided in a form consistent with the open meetings law. (Page 7, Section VII.)
- The SLT must be consulted prior to the appointment of a principal or assistant principal candidate to the school. (Page 7, Section X.A.)
- The SLT shall provide to the superintendent an annual assessment of the principal's record of developing an effective shared decision-making relationship with SLT members. (Page 2, Section II.B.2)
- Parent members of the CEC (and in an election year, candidates for the CEC) may serve as parent members of an SLT in the school their child attends. (Page 3, Section III.C.b(i).)
- The SLT may amend its by-laws, if necessary. (Page 4, Section IV.B.)
- The superintendent will consult with the SLT regarding any school restructuring plans. The SLT shall participate in the joint public hearing regarding proposals to close a school or make significant changes in school utilization. (Page 8, Section X.B.)
- The DLT develops the District Comprehensive Educational Plan (DCEP), which includes annual goals and objectives for the district aligned with the Chancellor's goals. (Page 5, Section V.A.)
- The Central Plan for school-based planning and shared decision making incorporates the individual district 100.11 plans adopted by the DLTs as well as the procedures set forth in this Regulation. The Office of School Improvement is responsible for maintaining copies of each district's plan and for compiling them into the Central Plan. (Page 5, Section V.A.)
- A citywide high school subcommittee will be formed to meet on a monthly basis to review relevant data and identify issues impacting student performance at the high school level and will report on a monthly basis to the DLTs. (Page 6, Section V.C.)
- Each SLT must provide a list of its members and a copy of its current by-laws to the DLT annually, by October 31. (Page 8, Section XII.)
- Each DLT must provide a list of all SLT member names from the schools in the district and a list of its own members and by-laws to the Chief Family Engagement Officer annually, by November 15. (Page 8, Section XII.)
- Parents may file grievances regarding the election of parents to serve on the SLT in the school their child attends within 7 school days of the election. (Page 9, Section XIV.A and B.)
- Parents may appeal grievance decisions to the Chancellor (c/o The Office of Legal Services) within 10 days of receipt of the superintendent's decision. (Page 9, Section XIV.C.)

ABSTRACT

This regulation ensures the formation of School Leadership Teams (SLTs) in every New York City Public School and District Leadership Teams (DLTs) in every community school district. It also includes the central plan for school-based planning and shared decision making.

I. INTRODUCTION

There must be an SLT in every New York City Public School. SLTs play a significant role in creating a structure for school-based decision making and shaping the path to a collaborative school culture. SLTs are a vehicle for developing school-based educational policies and ensuring that resources are aligned to implement those policies. Functioning in a collaborative manner, SLTs assist in the evaluation and assessment of a school's educational programs and their affect on student achievement.

II. SCHOOL LEADERSHIP TEAM RIGHTS AND RESPONSIBILITIES**A. Comprehensive Educational Plan and School-Based Budget**

1. Pursuant to State Education Law section 2590-h, the SLT is responsible for developing an annual school Comprehensive Educational Plan (CEP) that is aligned with the school-based budget for the ensuing school year. The school-based budget provides the fiscal parameters within which the SLT will develop the goals and objectives to meet the needs of students and the school's educational program.
2. The CEP shall be developed concurrently with the development of the school-based budget so that it may inform the decision-making process of the budget and result in the alignment of the CEP and the budget. The principal, who is responsible for developing the school-based budget, shall consult with the SLT during this development process so that the budget will be aligned with the CEP. The principal makes the final determination concerning the school-based budget.
3. To ensure the alignment of the CEP and the school-based budget, any SLT member may request (on behalf of the SLT) the Galaxy Table of Organization Report entitled "Public/SLT View" (with job ID and confidential information redacted) up to two times per semester and, in response, the principal shall provide this report within 5 school days. In addition, any member of the SLT may obtain from the DOE web site the Galaxy Budget Allocations, which are posted when allocations are issued for the new fiscal year, and the Galaxy Table of Organization Summary Reports, which are posted at the beginning of each academic year.
4. The SLT must use consensus based decision-making and must seek assistance if it is unable to reach consensus on the CEP. If it is unable to reach consensus on developing a CEP that aligns with the school-based budget, the SLT shall seek assistance from the District Leadership Team (DLT), and if that is not successful, then it shall seek assistance from the community or high school superintendent. The community or high school superintendent shall try to facilitate consensus among the SLT. If, even after seeking and receiving these forms of assistance, the SLT is still not able to reach consensus on the CEP, then the superintendent shall make the determination on developing the CEP. However, the superintendent makes the determination on the CEP only as a last resort, if all of the aforementioned methods of facilitating consensus among the members of the SLT have failed.
5. The principal must submit the proposed school-based budget to the community or high school superintendent for approval, along with a written explanation justifying that the school-based budget is aligned with the CEP. To become final, the budget must be approved by the community or high school superintendent, who must certify that the budget is aligned with the CEP. The superintendent prescribes the form and manner of submission of the written justification. (A suggested form is attached as Attachment No.1.)

6. If the members of the SLT (other than the principal) agree that the school-based budget is aligned with the CEP, the SLT does not need to submit a response to the principal's justification. If, however, the SLT members (other than the principal) reach a consensus that they disagree with the principal's justification that the school-based budget is aligned with the CEP, and that the principal's proposed budget is inconsistent with the goals and policies set forth in the CEP, the SLT may submit a written response to the justification to the community or high school superintendent within 10 school days. (A suggested form is attached as Attachment No. 1.)
7. If the members of the SLT (other than the principal) submit a response, then the community or high school superintendent shall provide a written response to the SLT within 10 school days. The superintendent's response shall include a determination regarding the dispute as to whether the school-based budget is aligned with the CEP, a description of the information reviewed and the basis for the decision. (A suggested form is attached as Attachment No. 2). Following receipt of this decision, the SLT and principal must immediately revise the school-based budget and CEP in accordance with the directives in the superintendent's response.
8. SLT members, other than the principal, may dispute any decision made by the principal where members of the SLT (other than the principal) reach a consensus that the decision is inconsistent with the goals and policies set forth in the school's existing CEP, by submitting a written objection to the community or high school superintendent. The superintendent shall provide a written response to the SLT and the principal within 10 school days of receiving the initial complaint, which response shall include a description of the information reviewed and the basis of the superintendent's decision regarding the dispute.
9. The final CEP and the school-based budget shall be posted on the DOE's or the school's official website and a copy shall be provided to each SLT member upon request at the school.

B. Other Responsibilities

1. The SLT is not responsible for the hiring or firing of school staff. However, consistent with Chancellor's Regulation C-30, the SLT must be consulted prior to the appointment of a principal or assistant principal candidate to the school.
2. The SLT shall provide an annual assessment to the community district or high school superintendent of the principal's record of developing an effective shared decision-making relationship with the SLT members during the year. (A sample assessment form is attached as Attachment No. 3).

III. COMPOSITION

A. Size of the Team

All SLTs should have a minimum of ten members and a maximum of 17 members. In determining the size of the team, budget allocations must be considered.

B. Mandatory Members

The only three mandatory members of the SLT are the school's principal, the Parent Association/Parent-Teacher Association (PA/PTA) President¹ and the United Federation of Teachers (UFT) Chapter Leader, or their designees.

C. Non-Mandatory Members

1. In addition to the mandatory members, SLTs must include other parents and staff (pedagogic and/or non-pedagogic) from the school. SLTs must have an equal number of parents and staff.

¹ In the case of co-presidents, the remaining PA/PTA officers shall determine which co-president will serve as the mandatory member of the SLT.

a. Election of Parents and Staff:

To ensure that all members of the school community have the opportunity to be included and to encourage broad participation on the SLT, parents and staff must be elected by their own constituent groups in a fair and unbiased manner determined by each constituent group, and all elections must be advertised widely, with reasonable advance notice given. Elections must be open to all members of the constituent group (e.g., PA/PTA, CSA, UFT, DC 37) and must be held in accordance with the term limits as set forth in the team's bylaws.

A minimum of ten calendar days' notice is required prior to the PA/PTA's election of its SLT parent members. In the case of a PTA, only parent members of the school's association may vote to elect parent representatives for the SLT. PA/PTAs are encouraged to stagger the terms of the non-mandatory parent members of the SLT.

SLT elections must be held after the PA/PTA elections in the spring (see Chancellor's Regulation A-660).

b. Eligibility

i. Parents

Parents² from the school are eligible to be elected by the school's PA/PTA to serve on the SLT.

Parents may not serve on the SLT as a parent member in schools in which they are employed, but they may serve in other schools where they have a child in attendance.

Parents may be elected to serve on more than one SLT as long as they meet the requirements set forth in this regulation.

Parent members of the CEC (and in an election year, candidates for the CEC) may serve as parent members of an SLT in the school their child attends.

ii. Staff

Parent coordinators may not serve as members of the SLT in any capacity in the school where they are employed. However, parent coordinators may be invited to attend meetings as observers or presenters in schools in which they are employed. They also may be asked to serve on SLT subcommittees.

Other school staff may not serve as parent members on the SLT in the school(s) where they are employed. Both the parent coordinator and other school staff members may, however, serve as parent members in other schools their children attend.

District office staff may not serve on any SLT as a parent member in the district in which they are employed.

Staff of the School Support Organizations (SSOs) may not serve as parent members on an SLT in any school that purchases services from the SSO.

2. Students and Community Based Organizations

SLTs also may include students (minimum of two students is required in high schools) and representatives of Community Based Organizations (CBOs). Students and CBO

² A parent is defined as a parent (by birth or step-parent), legally appointed guardian, foster parent or person in parental relation to a child. A person in parental relation refers to a person who has assumed the care of a child because the child's parents or guardians are not available, whether due to, among other things, death, imprisonment, mental illness, abandonment of a child, or living outside of the state.

members of the SLT do not count when determining if a team has an equal number of parents and staff (see Section III.C.1).

D. Chairperson/Co-Chairpersons

1. Once the team is constituted, it must select a Chairperson or Co-Chairpersons from among its membership. The Chairperson or Co-Chairpersons need not be mandatory members. SLTs may select members who are not mandatory members as Chairperson or Co-Chairpersons to maximize participation on the SLT.
2. The Chairperson is responsible for scheduling meetings, ensuring that team members have the information necessary to guide their planning, and focusing the team on educational issues of importance to the school. The Chairperson ensures that voices of all team members are heard.

E. Secretary

Each SLT must select a member of the SLT to serve as secretary. The secretary will be responsible for sending SLT meeting notices and for keeping the minutes of SLT meetings. Such minutes must be maintained at the school, with a copy provided to the PA/PTA. The school principal may designate an office staff member to assist the SLT secretary.

F. Community and Citywide Education Councils

Community Education Council (CEC) members act in a liaison capacity with the SLTs of the schools in their respective community school districts. Members of the Citywide Council on High Schools (CCHS) serve in a similar capacity for the high schools throughout the system, as do the members of the Citywide Council of Special Education (CCSE) with regard to District 75 schools. The liaison function includes attending meetings as observers and/or presenters, and participating on SLT committees and subcommittees when invited by members of the SLT.

IV. ESTABLISHING A SCHOOL LEADERSHIP TEAM

A. In a new school:

In order to establish a SLT, a school must first establish a PA/PTA. Chancellor's Regulation A-660 sets forth the process for doing this. Once the PA/PTA has been established, the school must follow the procedure below.

B. In a school with an existing PA/PTA:

The PA/PTA President or designated Co-President, the Principal and the UFT Chapter Leader or their designees must work together to draft bylaws for the SLT. It is then the responsibility of each of the constituent groups to elect or select³ its member representatives in accordance with the SLT's bylaws.

1. In elementary schools, middle/intermediate schools, District 75, and District 79, the mandatory members of the team may contact DOE parent engagement staff and Presidents' Council, as well as community district superintendents, for technical assistance and guidance through this process (see Section VI below).
2. In high schools, the mandatory members of the team may contact their DOE parent engagement staff and Borough High School Presidents' Council, as well as high school superintendents, for technical assistance and guidance (see Section VI herein).

Once the entire SLT is in place, it must review and adopt the team's bylaws and may amend those by-laws, if necessary.

Schools that have multiple sites will have one SLT, but the SLT may create subcommittees to assess the needs of all the sites and to report their findings to the SLT.

³ Parent and staff members must be elected; other members may be selected.

V. DISTRICT LEADERSHIP TEAMS**A. Rights and Responsibilities**

Pursuant to Section 100.11 of the Regulations of the Commissioner of Education, each community superintendent must develop a district plan for the participation by teachers, parents, and administrators for school-based planning and decision making. The superintendent is responsible for developing the district plan in collaboration with "a committee composed of administrators selected by the district's administrative bargaining organization(s), teachers selected by the teachers' collective bargaining organization(s), and parents (not employed by the district or a collective bargaining organization representing teachers or administrators in the district) selected by school-related organizations." In New York City, this committee is the District Leadership Team (the DLT).

A DLT must be formed in each community school district consisting of representatives from the elementary, middle, and high schools that are geographically located within that community school district. DLTs fulfill the requirements of Section 100.11 of the Commissioner's Regulations regarding the district-level plan for the participation of parents and staff in school-based planning and shared decision making.

The DLT will develop the District Comprehensive Educational Plan (DCEP), which includes annual goals and objectives that are aligned with the district's and the Chancellor's goals, and also incorporates the following six categories of the district 100.11 plan:

1. the educational issues that will be subject to shared planning at the building level;
2. the manner and extent of the expected involvement of all parties on the SLT;
3. the means and standards by which all parties shall evaluate improvement in student achievement;
4. the means by which all parties will be held accountable for the decisions which they share in making;
5. the process for dispute resolution in the SLTs; and
6. the manner in which state and federal requirements for the involvement of parents in planning and decision making will be met.

DLTs also will provide support, guidance, technical assistance, and conflict resolution to the SLTs in their districts. The Office of School Improvement will provide guidance and technical assistance to the superintendent and the DLT in the development of District Comprehensive Educational Plans (DCEPs).

In addition, DLTs must conduct a biennial review of the district's 100.11 plan to evaluate the effectiveness of shared decision making in the district. The DLT must complete the Biennial Review Form (Attachment A) and submit it to the Office for Family Engagement and Advocacy by January 15th of each even-numbered calendar year. The outcome of this Biennial Review must be submitted to the New York State Education Department by February 1st of each even-numbered year.

B. Composition

The required members of the DLT are:

- Community superintendent (or designee)
- High school superintendent(s) responsible for high schools that are geographically located within the district (or designee(s))
- CSA representative
- UFT representative
- DC 37 representative
- President of the district's Presidents' Council (or designee)

- President of the borough high school Presidents' Council (or designee)
- Chairperson of the Title I District Parent Advisory Council (or designee)

Community based organizations (CBOs), the president of the District CEC (or designee), and a member of the Citywide Council on High Schools whose child attends a high school geographically located within the district also may be included on the DLT.⁴

C. Citywide High School Subcommittee

To ensure that the needs and special issues impacting high schools and their students are fully represented in DLT discussions, a citywide subcommittee of high school representatives will be formed and will meet monthly to review relevant data and identify issues impacting student performance at the high school level. The outcome of the high school subcommittee meetings will be reported by members of the subcommittee (who will serve as liaisons) to the DLTs during the monthly DLT meetings as a standing agenda item. The DLTs will continue to include any high school-level constituency representatives and will discuss the issues raised by the subcommittee liaisons as part of the district's overall K-12 strategic planning and problem solving.

The required members of the citywide high school subcommittee are:

- High School Superintendents (or designees)
- District 79 Superintendent (or designee)
- UFT High School representative
- CSA High School representative
- DC 37 High School representative
- One parent representative from each High School President's Council.

VI. SUPPORT FOR SCHOOL AND DISTRICT LEADERSHIP TEAMS

Every community school district, borough, and District 75 will have a designated member of the Office for Family Engagement and Advocacy (OFEA) staff, who will provide comprehensive services to assist SLTs and DLTs, including professional development and technical support. Further, superintendents may seek the assistance of OFEA in the formation of DLTs.

As appropriate, designated OFEA staff will act as facilitators to assist all team structures in carrying out their roles and responsibilities. They will work closely with their respective district and school teams to facilitate their ability to fulfill their responsibilities as described in this regulation.

The designated OFEA engagement staff will work in coordination with the Community Superintendent to support and assist DLTs. They will provide regular training sessions to the SLTs and DLTs in their districts.

The designated OFEA engagement staff will provide regular training sessions to the SLTs in the high schools.

Key areas for training include, but are not limited to:

- roles and responsibilities
- team operations;
- assessing school-wide needs;
- understanding the school budget; and

⁴ A DLT also is required for District 75. The District 75 DLT shall consist of the Superintendent of District 75, a CSA and UFT representative, and the president of the District 75 Presidents' Council (or designee). CBOs and the president of the Citywide Council on Special Education (or designee) also may be included on the District 75 DLT.

- engaging families and communities in the review and development of a comprehensive educational plan, in conjunction with the Office of School Improvement.

Additionally, DLTs will collect information from PAs/PTAs in order to provide the Office for Family Engagement and Advocacy with a quarterly status report on SLT and DLT activities beginning December 1 of each year. A template for the report will be provided by the Office for Family Engagement and Advocacy.

The Office of School Improvement will provide training to SLTs on the development of Comprehensive Educational Plans (CEPs) and responding to Title I program requirements.

VII. SCHEDULING OF MEETINGS

SLTs should meet at least once a month during the school year. Meetings must take place on school or DOE premises and be scheduled at a time convenient to parent members (day or evening). Mandatory members or their designees are expected to attend all meetings of the SLT.

Notice of meetings must be provided in a form consistent with the open meetings law.

VIII. DECISION MAKING/PROBLEM SOLVING

SLTs must use a consensus-based decision-making process as their primary means of making decisions. Teams must develop methods for engaging in collaborative problem solving and solution seeking and, when necessary, effective conflict resolution strategies.

When a team has made every effort to resolve an issue and members cannot reach agreement, the team should seek assistance from the DLT and if that is not successful, then it shall seek assistance from the community or high school superintendent. The community or high school superintendent shall try to facilitate consensus among the SLT. If, after seeking and receiving these forms of assistance from the DLT and the superintendent, the SLT is still not able to reach consensus on the CEP, then the superintendent makes the final determination on developing a CEP. However, the superintendent makes the final determination on the CEP only as a last resort, if all of the aforementioned methods of facilitating consensus among the members of the SLT have failed.

Where team members have difficulty obtaining information or wish to obtain assistance in resolving issues relating to consultation with the school principal, they may seek assistance from the DLT or superintendent or designated OFEA engagement staff.

IX. REMUNERATION/RECORD KEEPING

A. To be eligible to receive the annual remuneration of \$300, SLT members, including students and CBO representatives, must complete 30 hours of service on the SLT and attend a mandatory training session relating to CEPs and budget issues each year, which training shall be offered by the Department of Education (DOE). Team members who attend training but serve less than 30 hours may request remuneration on a pro-rata basis.

1. Team members are responsible for ensuring that all records documenting the number of hours served are submitted to the Chairperson for processing.
2. Individual members must choose whether to accept or waive the annual remuneration and donate the funds to be used for other school purposes. Team bylaws may not dictate any specific choice.

B. Attendance and minutes must be recorded at every meeting.

X. SLT RELATIONSHIP WITH OTHER SCHOOL BASED ENTITIES

In its role as the school's planning and review body, the SLT is the central coordinating team in the school, and it should help to facilitate communication among the various school committees.

A. Chancellor's Regulation C-30 Level I Committee

1. All members of the SLT shall be consulted prior to the appointment of any principal or assistant principal candidate to the school.

2. SLT members are eligible to serve on the Level I C-30 Committee, subject to the requirements set forth in Chancellor's Regulation C-30. However, if parents from the SLT are not available to serve on the Level I C-30 Committee, the Chairperson of the Level I Committee shall offer the officers of the school's PA/PTA the opportunity to serve.⁵

B. School Restructuring Plans

The superintendent will consult with the SLT regarding any school restructuring plans for the school. With respect to all proposals to close a school or make a significant change in school utilization, the SLT shall participate in the joint public hearing held at the school. See Chancellor Regulation A-190. For more information about restructuring requirements for schools identified for improvement (SINI and SURR schools) under NCLB/SED mandates, please contact the Office of School Improvement at OSI@schools.nyc.gov. For more information about school phase-outs and closings, please contact the Office of Portfolio Development at portfolio@schools.nyc.gov.

C. Others Schools in the Building

In buildings that house multiple schools, the SLTs are encouraged to meet at least twice a year to discuss issues of mutual concern.

XI. CONSULTATION WITH PARENTS

To meet No Child Left Behind requirements, School and District Leadership Teams will serve as the vehicle for consultation with parent representatives regarding the use of federal reimbursable funding and program planning (e.g., Title I). School and District Leadership Teams should maintain documentation on file to verify that this required consultation has taken place.⁶

XII. BYLAWS

Every SLT and DLT must develop bylaws and operating guidelines to provide clear direction about SLT and DLT responsibilities. All bylaws must be consistent with this regulation. A bylaw template is attached as Attachment No. 4. Bylaws should incorporate key decisions about team membership and operations.

All bylaws **must** address the following areas:

- the roles of team members and Chairperson;
- team composition;
- quorum;
- method of election of parent and staff members;
- method of selection of Chairperson;
- method of selecting CBOs and student members where applicable;
- length of term and term limits;
- process for removal of Chairperson and members;
- method for making decisions (i.e. consensus or majority rule) and procedures to be followed if the team has a need for conflict resolution;
- filling vacancies;
- role of observers during meetings;
- who can speak at meetings;
- how agendas are established;

⁵ See Chancellor's Regulation C-30 for additional information.

⁶ Please refer to the Department of Education Title I Parent Involvement Guidelines memorandum which is disseminated by the Office for Family Engagement and Advocacy.

- that the team must meet at least ten times per school year;
- number of meetings that can be missed, and consequences of missing more than the designated number of meetings;
- whether the terms of non-mandatory parent members should be staggered; and
- that there is a secretary.

SLTs and DLTs may require through their bylaws that they meet and coordinate with other school committees such as the Parent Association/Parent Teacher Association and the Title I Committee to ensure that all school-wide committees are working toward the same goals set forth in the CEP.

SLT and DLT bylaws should be reviewed by the team at least biennially. Each SLT must provide a list of its members and a copy of its current bylaws to the DLT annually, by October 31. The DLT must provide a list of all SLT member names from the schools in the district and a list of its own members and bylaws to the Chief Family Engagement Officer (CFEO) annually, by November 15. If the SLT makes changes in its bylaws or there is a change in membership, notice of the changes must be forwarded to the DLT, which will then forward this information to the CFEO.

XIII. CENTRAL PLAN FOR SCHOOL-BASED PLANNING AND SHARED DECISION MAKING

The Central plan for school-based planning and shared decision making incorporates the individual district plans adopted by DLTs in accordance with Section 100.11 of the Regulations of the Commissioner of Education as well as the procedures set forth in this Regulation. The Office of School Improvement is responsible for maintaining copies of each district's plan and for compiling them into the Central plan. The Citywide Committee that approves the Central plan for school-based planning and shared decision making shall include a senior UFT representative, a senior CSA representative, a senior DC 37 representative, and representatives designated by the Chancellor.

XIV. GRIEVANCES

- A. Parents may file a written complaint regarding the election of parents to serve on the SLT in a school their child attends.
- B. Such complaint must be filed with the appropriate superintendent⁷ within seven (7) school days of the election. A decision will be rendered by the superintendent within seven (7) school days of receipt of the complaint. If a decision cannot be rendered within seven (7) school days because of a continuing investigation or a referral to other authorities, the superintendent must issue a response explaining the reason for the delay within the seven (7) school-day period, and must include a projected date for a final decision. Where interim remedies are appropriate, they should be included in the response.
- C. Parents may appeal the decision of the superintendent to the Chancellor. Such appeal must be filed within ten (10) school days of receipt of the superintendent's decision. Appeals must be sent to the Chancellor c/o The Office of Legal Services, 52 Chambers Street, Room 308, New York, NY 10007. The Chancellor will render a decision within fourteen (14) school days of receipt of the appeal. If a decision cannot be rendered within fourteen (14) school days because of a continuing investigation or a referral to other authorities, the Chancellor must issue a response explaining the reason for the delay within the seven-day period, and must include a projected date for the final decision. Where interim remedies are appropriate, they should be included in the response. The decision of the Chancellor on appeal is final.

⁷ Complaints regarding community district schools are filed with community superintendent; complaints regarding high schools are filed with the high school superintendent; complaints regarding District 75 schools are filed with the District 75 superintendent.

XV. GUIDANCE AND ASSISTANCE

The Office for Family Engagement and Advocacy will provide guidance and respond to inquiries regarding the implementation of this regulation.

The Office of School Improvement will provide guidance and technical assistance regarding the development and review of school and district level Comprehensive Educational Plans, District 100.11 Plans, Title I programmatic requirements and required federal and state school and district improvement processes. (See Section VI.)

The Office for Family Engagement and Advocacy in consultation with other central offices also may issue guidelines to supplement this regulation.

All other general inquiries pertaining to this regulation should be addressed to:

Telephone:
212-374-2323

Office for Family Engagement and Advocacy
N.Y.C. Department of Education
49 Chambers Street – Room 503
New York, NY 10007

Fax:
212-374-0076

SCHOOL-BASED BUDGET AND CEP SUMMARY

The School-Based Budget and CEP Summary describes the major goals of the CEP and demonstrates that the school-based budget is aligned with the CEP. It lists the major goals and programs provided for in the CEP and the budget allocations that support and are aligned with these goals and programs.

I. Overall summary of CEP (educational goals, programs, initiatives to be implemented at the school in the coming year)

This section should provide an outline of the CEP for the coming year in this space; then, in the boxes below, each CEP Goal or Program should be listed separately in each box.

II. Budget Summary

A worksheet should be provided reflecting the overall school-based budget for the coming year (either in this space or attached hereto); then, in the boxes below, the budget allocation (funding source) should be provided for each goal or program in the CEP.

III. Alignment of School-Based Budget with CEP

In this section, the principal must demonstrate using the boxes below whether there is alignment of each CEP goal/program with budget allocations for the coming year.

<u>CEP Goal or Program</u>	<u>Budget Allocation (Funding)</u>

CEP Goal or Program

Budget Allocation (Funding)

<u>CEP Goal or Program</u>	<u>Budget Allocation (Funding)</u>

Submitted by:

(Signature)

(Printed name)

Principal of _____

Date: _____

SUPERINTENDENT'S DETERMINATION

TO: SLT of [insert school name]
FROM: [insert name]
RE: Determination Regarding Dispute as to whether School-Based Budget
Is Aligned with the CEP
DATE: [insert]

In response to the dispute that has arisen between the SLT and the principal of [insert name of school] concerning whether the school-based budget is aligned with the CEP, I have determined that there is [or is not] alignment on the following aspects of the school based budget. [Either state that there is alignment or, alternatively, list each aspect for which there is not alignment and explain why alignment is lacking.]

In reaching this determination, I have reviewed the following materials:
[list all materials that have been submitted by the principal, the SLT, as well as materials that have been reviewed independently.]

If there is not alignment, then state: The SLT and/or principal must make the following revisions in order to create alignment between the CEP and the school-based budget: [list items].

If there is alignment, then certify that there is alignment, stating: I certify that, based on the materials I have reviewed, there is alignment between the school's CEP and the school-based budget for the _____ school year.

Dated: _____

By: _____
Superintendent of District _____

SCHOOL LEADERSHIP TEAM ANNUAL EVALUATION FORM

School Name:	Level: <input type="checkbox"/> ES <input type="checkbox"/> MS <input type="checkbox"/> HS	Year:
Parent Representative:	<input type="checkbox"/> Mandatory <input type="checkbox"/> Elected	
Date:	Years Served on SLT: <input type="checkbox"/> 0-1 <input type="checkbox"/> 1-3 <input type="checkbox"/> 4+	

SCHOOL LEADERSHIP TEAM (SLT) ASSESSMENT OF PRINCIPAL FORM

School Name:	Level: <input type="checkbox"/> ES <input type="checkbox"/> MS <input type="checkbox"/> HS	Year:
Parent Representative:	<input type="checkbox"/> Mandatory <input type="checkbox"/> Elected	
Date:	Years Served on SLT: <input type="checkbox"/> 0-1 <input type="checkbox"/> 1-3 <input type="checkbox"/> 4+	

Please rate the principals' performance in developing an effective shared decision-making relationship with the School Leadership Team (SLT) during the year based upon your experience as an SLT member.

Excellent Very Good Good Satisfactory Needs Improvement

COMMENTS:

I have read and understand the contents of this document. I certify that the answers are based on my own experiences.

_____ Parent/Staff Name _____ Signature/Date

This evaluation has been received by the Department of Education.

_____ Print Name _____ Signature/Date

[School Letterhead]

Bylaws of the School Leadership Team of **[Name of School]**

Adopted **[Date]**

Article I – School Leadership Team Mission Statement **[and]** Educational Vision

The mission of the School Leadership Team of **[Name of School]** is **[Insert collaboratively designed mission statement. Some teams may elect to also include an educational vision statement.]**

Article II – Team Composition

Section 1 Size of Team

The total number of members shall be **[Insert total number.]**. The team shall maintain an equal number of parent and staff members, **[Insert number from each constituency]** from each constituency.

Section 2 Mandatory Members

The only three mandatory members of the SLT are the school's principal, the Parent Association/Parent-Teacher Association (PA/PTA) President¹ and the United Federation of Teachers (UFT) Chapter Leader. Mandatory members of the SLT may designate another member of their constituent group to serve in their stead.

Section 3 Members at Large

The remaining members of the team shall consist of:

- **[Insert number]** elected parent members
- **[Insert number]** elected UFT member(s)
- **[Insert number]** elected DC 37 member(s)
- **[Insert number - must be at least 2 for high schools]** students
- **[Insert number - optional]** community based organization members(s)

Section 4 Election of Team Members

Parent and staff SLT members must be elected by their own constituent group in a fair and unbiased manner determined by each constituent group. All elections must be advertised widely, with reasonable advance notice given. Elections must be open to all members of the constituent group and must be held in accordance with the term limits set forth in these bylaws.

Parent member elections must be scheduled after PA/PTA elections are held each Spring. Parents must be provided a minimum of ten calendar days notice prior to the election. The PA/PTA is encouraged to stagger the terms of the non-mandatory parent members of the SLT.

[High schools and other teams wishing to include student members must add: Student members will be selected by the student body and shall serve for a period of one year. Student team members will be included in the total number of team members, but will not be counted when determining the balance of parent and staff members.]

¹ In the case of co-presidents, the remaining PA/PTA officers shall determine which co-president will serve as the mandatory member of the SLT.

Community based organizations may also serve on SLTs. The SLT will create a process for the organizations to apply for membership. A member of the team may also recommend an organization for membership. This will be done on an annual basis. Community based organization members will be included in the total number of team members, but will not be counted when determining the balance of parent and staff members.

Elections held to fill vacancies due to resignation, cessation of member eligibility, or removal pursuant to Article _____ will be conducted by the appropriate constituent group prior to the next scheduled team meeting. Team members elected to fill vacancies shall be eligible to serve until the completion of that term.

Section 5 Chairperson/Co-Chairpersons

Selection Method - The Chairperson shall be selected by consensus of the team and shall serve for a period of **[Insert Chairperson's term length]** years. If the team opts to elect Co-Chairpersons, they will share the role of Chairperson as outlined in these bylaws. The election shall take place at the September meeting. [The Chairperson is responsible for scheduling meetings, ensuring that team members have the information necessary to guide their planning, and focusing the team on educational issues of importance to the school. The Chairperson ensures that voices of all team members are heard.]

Section 6 Additional Leadership Roles

Secretary – The secretary will be responsible for sending SLT meeting notices and for keeping the minutes of SLT meetings. Such minutes must be maintained at the school, with a copy provided to the PA/PTA. The school principal may designate an office staff member to assist the SLT secretary.

Facilitator – The Facilitator shall advise the Chairperson and other team members on matters of Parliamentary Procedure.

Financial Liaison – The Financial Liaison shall assume responsibility for documenting member participation for the purposes determining eligibility for the annual SLT remuneration.

Timekeeper – The Timekeeper ensures that all agenda items are discussed by monitoring the allotment of time afforded each item.

Selection Method – Additional leadership roles will be filled by consensus of the team at the **[Insert month]** meeting and shall serve for a period of **[Insert term length]** years.

Section 7 Length of Term and Term Limits

Team members, with the exception of mandatory members, student members, and community based organization members, are elected for **[Insert number of years]** year terms. However, all members must remain eligible to serve pursuant to Chancellor's Regulation A-655 for the duration of their term.

Members may not serve more than **[Insert number of terms]** consecutive terms. However, if no other willing, eligible candidate is identified for a particular constituent group, a member may be elected for an additional term.

Section 8 Responsibilities of School Leadership Team Members

Team members, including those additional roles outlined in these bylaws, are responsible for developing an annual school Comprehensive Educational Plan (CEP) that is aligned with the school-based budget for the ensuing school year. The school-based budget provides the fiscal parameters within which the SLT will develop the goals and objectives to meet the needs of students and the school's educational program.

The SLT shall provide an annual assessment to the community or high school superintendent of the principal's record of developing an effective shared decision-making relationship with the SLT members during the year.

The SLT will serve as the vehicle for consultation with parent representatives regarding federal reimbursable funding (e.g., Title I). The SLT will coordinate with other school committees such as the Parent Association/Parent Teacher Association and the Title I Committee to ensure that all school-wide committees are working toward the same goals set forth in the CEP.

Team members must work collaboratively by sharing their ideas and concerns and listening to the ideas and concerns of others; engaging in collaborative problem-solving and solution-seeking that will lead to consensus-based decisions.

Team members must communicate effectively with their constituent groups and share the views of their constituencies with the team.

Article III – Team Meetings

Section 1 Schedule of Meetings

The School Leadership Team shall meet at least once a month during the school year. All meetings shall be held on **[Insert day of each month (i.e., first Thursday of every month)]** from **[start time]** to **[end time]**. Additional meetings will be scheduled by the Chairperson as needed or upon request by the team members. Meetings will be scheduled at a time convenient for parent members on the team. Parent members will be polled each year to determine a convenient time for team meetings.

Members who miss more than two consecutive meetings without rendering in writing a good and valid excuse will be subject to removal from the team.

Section 2 Notice of Team Meetings

The School Leadership Team will establish a yearly calendar which shall be posted in the general office, front security desk, in the parent coordinator's office and **[Insert addition locations as needed (i.e., school website, SLT bulletin board, etc.)]** at the beginning of each school year. The calendar shall be distributed at the first meeting of the parent association each school year. The Chairperson will send meeting reminders one week prior to all meetings by school mailbox and backpack, postal mail, email, or telephone.

Section 3 Meeting Attendance

School Leadership Team members are expected to attend all meetings. If team members are unable to attend the meeting, they must contact the Chairperson in advance of the meeting.

Section 4 Quorum

[Insert quorum number or a majority clause such as, "A majority of SLT members including representation from each constituent group"] shall constitute a quorum. Each constituent group shall be responsible for ensuring that their group is adequately represented at each meeting.

Section 5 Order of Business

- Call to Order
- Reading and Approval of the Previous Meeting's Minutes
- Committee Reports
- Discussion of Unfinished Business Agenda Items
- Discussion of New Business Agenda Items
- Creation of Agenda for the Next Meeting
- Adjournment

Article IV – Removal of a School Leadership Team Member

Section 1 Removal Process

Team members who fail to attend [*insert number of meetings*] consecutive meetings, fail to perform their roles and responsibilities as outlined in these bylaws, or behave in a manner that is disruptive and undermining to the work of the Team will be removed by consensus of the remaining team members. The School Leadership Team must have a quorum of members present and reach unanimous agreement when deciding to remove a member. The member shall be provided a written notice of the Team's decision. The letter shall include the reason for the removal and the member's right to appeal the decision. The letter shall be signed by the Chairperson or Co-Chairpersons and shall be sent by registered return receipt mail delivery to ensure proper notification and receipt.

Section 2 Filling a Vacancy

When a member resigns or is removed, the vacancy will be advertised to the appropriate constituent group and an election will be held in accordance with these bylaws.

Article V – Decision-Making

Section 1 **[Consensus-based decision-making must be the primary means of making School Leadership Team decisions. Consensus should be defined as reaching an agreement acceptable to all members. The team should develop methods for engaging in collaborative problem-solving and solution seeking and, when necessary, effective conflict resolution strategies. The agreed upon procedures should be summarized here.]**

Article VI – Conflict Resolution

Section 1 Assistance from the District Leadership Team (DLT)

The School Leadership Team will seek assistance from the DLT or appropriate superintendent when members cannot reach agreement on an issue. Where team members have difficulty obtaining information or wish to obtain assistance in resolving issues relating to consultation with the school principal, they may seek assistance from the DLT or superintendent. If after receiving assistance from the DLT or superintendent, the Team still cannot reach agreement on the CEP, the superintendent will make the final determination.

Section 2 Assistance from the Office for Family Engagement and Advocacy (OFEA)

If the DLT or superintendent is unable to resolve such issues to the satisfaction of team members, team members may send a written request for assistance to the designated OFEA engagement staff.

Article VII – Bylaws Review and Amendment

The bylaws may be amended at any regular meeting of the team, provided notice of any proposed changes has been given at a previous meeting. In addition, the bylaws will be reviewed annually, at the start of the school year to ensure that the document's provisions meet the needs of the team and remain consistent with Chancellor's Regulation A-655.

These bylaws were amended on **[insert date of last amendment]** and are on file in the principal's office.

Principal Name

Principal Signature

PA/PTA President Name

PA/PTA President Signature

UFT Chapter Leader Name

UFT Chapter Leader Signature

[District Letterhead]

Bylaws of the District Leadership Team of **[Name of District]**

Adopted **[Date]**

Article I – District Leadership Team Mission Statement **[and]** Educational Vision

The mission of the District Leadership Team of **[Name of District]** is **[Insert collaboratively designed mission statement. Some teams may elect to also include an educational vision statement.]**

Article II – Team Composition

Section 1 Size of Team

The total number of members shall be **[Insert total number.]**

Section 2 Mandatory Members

The mandatory members of the DLT are:

- Community superintendent (or designee)
- High school superintendent(s) responsible for high schools that are geographically located within the district (or designee(s))
- CSA representative
- UFT representative
- DC 37 representative
- President of the district's Presidents' Council (or designee)
- President of the borough high school Presidents' Council (or designee)
- Chairperson of the Title I District Parent Advisory Council (or designee)
- ELL representative

Section 3 Members at Large

Indicate all other included members in this section.

[The remaining members of the team may consist of representatives of community based organizations, the president of the District CEC (or designee), and a member of the Citywide Council on High Schools whose child attends a high school located within the district.]

Section 4 Citywide High School Subcommittee

A citywide subcommittee of high school representatives will be formed to ensure that the needs and special issues impacting high schools and their students are fully represented in DLT discussions. The high school subcommittee will meet monthly. The results of the meetings will be reported by a member of the subcommittee (who will serve as a liaison) at monthly DLT meetings as a standing agenda item. The DLT will continue to include any high school constituency representatives and will discuss the issues raised by the subcommittee liaisons as part of the district's overall K-12 strategic planning and problem solving.

Section 5 Chairperson/Co-Chairpersons

Selection Method - The Chairperson shall be selected by consensus of the team and shall serve for a period of **[Insert Chairperson's term length]** years. If the team opts to elect Co-Chairpersons, they will share the role of Chairperson as outlined in these bylaws. The election shall take place at the September meeting.

Role - The Chairperson is responsible for scheduling meetings, ensuring that team members have the information necessary to guide their planning, and focusing the team on educational issues of importance to the school. The Chairperson ensures that voices of all team members are heard.

Section 6 Additional Leadership Roles

Secretary – The secretary will be responsible for sending DLT meeting notices and for keeping the minutes of DLT meetings. Such minutes must be maintained at the district office. The superintendent may designate an office staff member to assist the SLT secretary.

Facilitator – The Facilitator shall advise the Chairperson and other team members on matters of Parliamentary Procedure.

Financial Liaison – The Financial Liaison shall assume responsibility for documenting member participation for the purposes determining eligibility for the annual SLT remuneration.

Timekeeper – The Timekeeper ensures that all agenda items are discussed by monitoring the allotment of time afforded each item.

Selection Method – Additional leadership roles will be filled by consensus of the team at the **[Insert month]** meeting and shall serve for a period of **[Insert term length]** years.

Section 7 Responsibilities

The District Leadership Team will develop the District Comprehensive Educational Plan (DCEP), which includes annual goals and objectives that are aligned with the district's and the Chancellor's goals, and incorporates the following six categories of the district 100.11 plan:

1. the educational issues that will be subject to shared planning at the building level;
2. the manner and extent of the expected involvement of all parties on the SLT;
3. the means and standards by which all parties shall evaluate improvement in student achievement;
4. the means by which all parties will be held accountable for the decisions which they share in making;
5. the process for dispute resolution in the SLTs; and
6. the manner in which state and federal requirements for the involvement of parents in planning and decision making will be met.

The DLT will provide support, guidance, technical assistance, and conflict resolution to the SLTs in the district.

The DLT will conduct a biennial review of the district's 100.11 plan to evaluate the effectiveness of shared decision making in the district and will complete the Biennial Review Form (Attachment No. 1 of Chancellor's Regulation A-655) and submit it to the Office for Family Engagement and Advocacy by January 15th of each even-numbered year.

Article III – Team Meetings

Section 1 Schedule of Meetings

The District Leadership Team shall meet at least once a month during the school year. All meetings shall be held on ***[Insert day of each month (i.e., first Thursday of every month)]*** from ***[start time]*** to ***[end time]***. Additional meetings can be scheduled by the Chairperson as needed or upon request by the team members. Meetings will be scheduled at a time convenient for parent members on the team. Parent members will be polled each year to determine a convenient time for team meetings.

Section 2 Notice of Team Meetings

The District Leadership Team will establish a yearly calendar which shall be posted in the district office ***[Insert addition locations as needed (i.e., doe website, etc.)]*** at the beginning of each school year. The calendar shall be distributed at the first meeting of the Presidents' Council each school year. The Chairperson will send meeting reminders one week prior to all meetings by school mailbox and backpack, postal mail, email, or telephone.

Section 3 Meeting Attendance

District Leadership Team members are expected to attend all meetings. If team members are unable to attend the meeting, they must contact the Chairperson in advance of the meeting.

Section 4 Quorum

[Insert quorum number or a majority clause such as, "A majority of DLT members including representation from each constituent group"] shall constitute a quorum. Each constituent group shall be responsible for ensuring that their group is adequately represented at each meeting.

Section 5 Order of Business

- Call to Order
- Reading and Approval of the Previous Meeting's Minutes
- Committee Reports including High School Subcommittee
- Discussion of Unfinished Business Agenda Items
- Discussion of New Business Agenda Items
- Creation of Agenda for the Next Meeting
- Adjournment

Article IV – Decision-Making

Section 1 Consensus-Based Decision-Making

Consensus-based decision-making must be the primary means of making decisions. Consensus should be defined as reaching an agreement acceptable to all members. ***[The team should develop methods for engaging in collaborative problem-solving and solution seeking and, when necessary, effective conflict resolution strategies. The agreed upon procedures should be summarized here.]***

Article V – Bylaws Review and Amendment

The bylaws may be amended at any regular meeting of the team, provided notice of any proposed changes has been given at a previous meeting. In addition, the bylaws will be reviewed annually, at the start of the school year to ensure that the document's provisions meet the needs of the team and remain consistent with Chancellor's Regulation A-655.

These bylaws were amended on **[insert date of last amendment]** and are on file in the principal's office.

Superintendent Name

Superintendent Signature

High School Superintendent Name

High School Superintendent Signature

CSA Representative Name

CSA Representative Signature

UFT Representative Name

UFT Representative Signature

DC-37 Representative Name

DC-37 Representative Signature

District Presidents' Council President Name

District Presidents' Council President Signature

High School Presidents' Council President Name

High School Presidents' Council President Signature

Title I DPAC Chairperson Name

Title I DPAC Chairperson Signature

ELL Representative Name

ELL Representative Signature

EXHIBIT B

343 East 92nd Street, Apt. 5W
New York, NY 10128

March 17, 2014

Linda Hill
Principal
I.S. 49 Berta A. Dreyfus
101 Warren Street
Staten Island, NY 10304

**BY CERTIFIED AND
ELECTRONIC MAIL**

Dear Ms. Hill:

I am a retired mathematics teacher of the New York City Department of Education who is interested in the role of School Leadership Teams ("SLTs") in the utilization of Title I funds.

I would like to attend, as an observer, the next SLT meeting at I.S. 49 Berta A. Dreyfus. The school's website for the PTA indicated that the next SLT meeting was at 6:00 p.m. on April 8, 2014 and a written request was required to attend. However, the announcement did not indicate where to send the written request, and I am therefore directing my request to each of the core members of the SLT.

SLTs serve a vital function pertaining to the welfare of the community, and I thank you for the opportunity to attend the SLT meeting at I.S. 49 Berta A. Dreyfus on April 8, 2014.

Very truly yours,

Michael P. Thomas

Michael P. Thomas
michaelpthomas@hotmail.com

cc: Francesco Portelos, UFT Chapter Leader (By e-mail)
Laura Cavalerri, PTA President (By certified mail)

EXHIBIT C

From: **Trombetta Victoria (31R049)** (VTrombe@schools.nyc.gov)
Sent: Tue 3/18/14 6:12 PM
To: michaelphomas@hotmail.com (michaelphomas@hotmail.com)

It would be a pleasure to have you attend. Please note the meeting was changed on 3/4 to April 1 at 4:00. Three of the teaching staff will be grading the ELA on the 8th. The first is in line with scheduling anyway as it is the first Tuesday of the month. I hope this works for you and we will see you on the first. If you need any directions etc. please do not hesitate to ask.

Victoria Trombetta

I.S. 49R

EXHIBIT D

**School Leadership Team By-Laws
For
Dreyfus Intermediate School 49
Adopted January 2013**

Article I – Mission Statement/Educational Vision

The mission of Dreyfus Intermediate School 49 is to provide a child centered environment that will inspire and challenge all of our students to become independent thinkers, problem solvers and lifelong learners and to work as a collaborative unit of parents, faculty and staff to ensure that all children reach their academic goals.

Article II – Team Composition

Section I – Membership

The number of parent and staff members on the team shall be **five** from each constituency. The total number of members shall be **ten**.

1.1 Core members of the team shall be the principal, United Federation of Teachers (UFT) Chapter Chairperson (or Delegate), and the Parent Association (PA) or Parent-Teacher Association (PTA) President or Co-President. Core members of the School Leadership Team have the option to designate another member of their constituent group to serve in their stead on the team for the period of the term.

1.2 The remaining members of the team shall consist of:

- a. **Three** elected UFT members
- b. **Four** elected parent members

Section II – Organization Structure

Chairperson or Co-Chairpersons

Recorder

Financial Liaison (may be filled by Chair or Co-Chair)

Title One Liaison (optional)

Section III – Length of Term

The length of term for team members (with the exception of the core members) shall be **three** years, provided the individual team member is eligible to serve in accordance with the **Chancellor's Regulation A-655**. Team members may not serve for more than **three** consecutive terms or **nine** years.

Section IV – Selection and Role of the Chairperson(s)

4.1 The Chairperson shall be elected by consensus of the team and shall serve for a period of **one** year or until his/her successor is elected. If the team opts to elect Co-Chairpersons, they will share the role and responsibilities as outlined in these By Laws. The election shall take place at the September meeting.

4.2 The role of the Chairperson(s) shall be to schedule meetings **by consensus** and ensure that the team meetings are effectively organized; preside at all meetings; interface with the Principal and core members; facilitate discussions during meetings; set meeting agendas in collaboration with other team members; coordinate team and subcommittee efforts; ensure that information is disseminated to all team educational issues; and secure all records of the team.

Section V – Selection and Roles of Additional Organizational Structure Members

5.1 The Recorder shall keep an accurate, written record (minutes) of all team meetings, including member attendance; will distribute minutes to all team members; and will post minutes for the entire school community within **three** business days. Minutes are to be posted on the parent bulletin board in the first floor hallway of the school building and on the Berta49 web site. The Recorder shall also prepare responses to correspondence addressed to the team. The position of Recorder may be rotated amongst the team members.

5.2 The Financial Liaison shall assume responsibility for the financial affairs of the team. The Financial Liaison shall be responsible for maintaining a file of attendance records for verification of member participation. The Financial Liaison shall keep remuneration logs up to date and be responsible to have all members sign off on same in June.

Section VI – Role and Responsibility of Team Members

6.1 Team members, including those additional roles outlined in these By Laws, are responsible for: participating in the development and review of the Comprehensive Education Plan (CEP); ensuring that the budget is aligned to support the CEP; working collaboratively with other team members by sharing their

ideas and concerns; listening to the ideas and concerns of others; engaging in collaborative problem-solving and solution-seeking that will lead to consensus-based decisions that meet the needs of all students; sharing the views of their constituencies with the team; and engaging in conflict resolution processes when necessary. **Special emergency meetings may be called to facilitate the completion and/or revisions needed on the CEP. These meetings shall be called by the Principal and forwarded to the Chairperson(s). The Chairperson(s) is responsible for contacting all members in regards to emergency meetings.**

6.2 In addition, team members have the responsibility to: attend all team meetings; to identify concerns and issues to be discussed during SLT meetings; to review minutes and give feedback; Chair and/or serve on team subcommittees; and to communicate effectively with their constituent groups.

6.3 The constituent groups on the School Leadership Team (SLT) shall select their representatives for the C-30 Level I Committee subject to the manner proscribed in Chancellor's Regulation C-30. **The DC 37 members shall be supplied by the District Office.**

Article III – Team Meetings

Section I – Schedule of Meetings

1.1 The minimum number of monthly meetings shall be **ten (10)**. All meetings shall be held on the **first Tuesday of the month**. Additional meetings will be scheduled as needed either by the Chairperson, or upon the request of the members of the team, after a consensus of the Team. Meetings will be scheduled at a time that is most convenient for parent members on the Team. Parent members will be polled each year to determine the time most convenient for Team meetings.

1.2 Members who miss more than **two (2)** consecutive meetings, without rendering in writing a good and valid excuse, will be subject to removal from the team.

Section 2 – Notice of Team Meetings

The Team will establish a yearly calendar which shall be posted in the Parent Coordinator's office and on the PTA bulletin board on the first floor, in the hallway, at the beginning of each school year. The calendar shall be distributed at the first meeting of the Parent Association/Parent Teacher Association each year. The date of the next month's meeting will be posted on the Principal's board by the **PA/PTA President**. The Chairperson or liaison will remind members **one week** in advance, by telephone or e-mail, of all meetings.

Section 3 – Meeting Attendance

The regularly scheduled team meetings will be open to members of the school community. The school community shall consist of parents of children currently attending the school, staff and liaisons to the school (i.e. CEC representatives). Members of the school community, who are not team members, may request speaking time at meetings to discuss specific topics. **All such requests must be submitted in writing to the Chairperson or liaison, at least one week in advance of the scheduled meeting.** Non-members are encouraged to bring issues of concern to their constituent representative(s) on the team prior to team meetings. Requests for topics of discussion should be submitted in writing **at least one week** in advance of the meeting date.

Section 4 – Quorum

A minimum of **three** SLT members from each constituent group shall constitute a quorum in order for any voting/consensus or new business to take place. Each constituent group shall be responsible for ensuring that their group is adequately represented at each meeting.

Section 5 – Order of Business

Call to Order

Reading and Approval of Prior Month's Meeting Minutes

Subcommittee(s) Report

Old Business Agenda Items

New Business Agenda Items

Adjournment

Article IV – Team Member Elections

To ensure that all members of the school community shall have the opportunity to participate and to encourage the broadest possible participation, parents and staff will be elected by their own constituent group in an election that is widely advertised, with reasonable advance notice, open to all members of the constituent group and in a way that is public and perceived fair and unbiased. PA/PTA elections for parent

member representatives must allow for a minimum of **ten (10)** calendar days' notice. Team members elected to fill vacancies shall be eligible to serve until the completion of their term. Any parent vacancies on the School Leadership Team will be filled at the first scheduled PA/PTA meeting by a vote, as set forth in these by laws. Any staff vacancies will be filled in September through a vote as set forth in these by laws.

Article V – Removal of a Team Member

Team members who fail to attend **two (2)** consecutive meetings; and/or fail to perform their roles and responsibilities, as outlined in these by laws and/or behave in a manner during meetings that is disruptive and undermines the work of the team will be removed by consensus of the remaining members. The process for removing a team member shall require that the team have a **quorum** of members present; that they reach consensus in their decision to remove the member; and when the member resigns or is removed, the vacancy will be advertised to the appropriate constituent group and an election will be held in accordance with these by laws. The member shall be officially notified in writing by the team of its decision. The letter shall include the reason for the removal and the member's right to appeal the decision. The letter shall be signed by the Chairperson(s) and shall be sent by registered, return receipt mail delivery to ensure proper notification and receipt.

Article VI – Decision Making

The team will develop methods for engaging in collaborative problem-solving and solution seeking that will lead to consensus-based decisions and when necessary, effective conflict resolution strategies.

Consensus, defined as reaching an agreement acceptable to all of the team members, will be the team's primary decision-making tool.

In the spirit of meaningful, collaborative decision-making, should an issue arise resulting in an impasse due to the non-agreement on the part of one team member; the team will table the issue for **one** meeting. The dissenting team member will prepare a brief statement of interest and present their views at the beginning of the next meeting. The entire team will then work toward consensus on the issue during the meeting. If consensus still cannot be reached, the team should contact the appropriate District Support Personnel for further assistance.

In cases where an urgent or time-sensitive decision must be made and the entire team cannot be consulted or cannot reach a consensus, the team must contact the appropriate District Support Personnel for further assistance.

Article VII – Conflict Resolution

In the case of an impasse, the team has the obligation to seek assistance from the District Support Personnel, the Superintendent, or other external sources after every effort has been made to resolve the issue internally.

A team member may seek external assistance when said member deems it necessary. In such situations, the team will have access to a variety of supports including, but not limited to, the District Leadership Team.

Article VIII – By Laws Review and Amendment

The By Laws may be amended at any regular meeting of the team, provided notices of any proposed changes have been given at a previous meeting. In addition, the By Laws will be reviewed annually, at the start of the school year to ensure that the document's provisions meet the needs of the team.

These By Laws were amended and approved, January 8, 2013, and are on file in the Principal's Office.

EXHIBIT E

From: Trombetta Victoria (31R049)
Sent: Wednesday, March 19, 2014 1:14 PM
To: michaelphomas@hotmail.com
Subject: SLT meeting

Michael

In an effort to assure all procedures were followed, I reviewed the SLT By Laws. During my read of said laws, I realized you would not be permitted to attend, even with prior notice, as you not a member of the school community. Our By Laws are quite specific as to whom is considered school community members and states that only such members may attend.

Please accept my deepest apologies.

Victoria Trombetta
D.S. 49R

EXHIBIT F

From: Michael Thomas [michaelphomas@hotmail.com]

Sent: Wednesday, March 19, 2014 2:28 PM

To: Trombetta Victoria (31R049)

Subject: RE: SLT meeting

Victoria,

I understand completely, and your bylaws are consistent with DOE policy. I would like to challenge that policy in court and to have "standing" – according to the New York City Law Department – I must be denied entrance onsite.

I appreciate the vital purpose of SLTs, and I do not want to disrupt your SLT meeting in any way. I would like to come to I.S. 49 on April 1 and have security at the front entrance write on a copy of your latest e-mail that I was "denied entry." Nobody, except the security officer, will ever know I was there!

Please let me know if this will be a problem.

Thank you,
Mike

Index No. 100538/2014

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the Matter of

MICHAEL P. THOMAS

Petitioner,

For an Order and Judgment pursuant to Article 78 of the Civil
Practice Law and Rules

- against -

NEW YORK CITY DEPARTMENT OF EDUCATION, and
CARMEN FARINA, Chancellor of the New York City Department of
Education

Respondents.

**AFFIDAVIT OF LINDA HILL IN SUPPORT OF VERIFIED
ANSWER**

ZACHARY W. CARTER

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Attorney for Respondents
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New York, N.Y. 10007*

*Of Counsel: Lesley Berson Mbaye
Tel: (212) 356-0897
Matter #: 2014-018798*

EXHIBIT D

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : FIRST DEPARTMENT

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In the Matter of the Application of
MICHAEL P. THOMAS,
Petitioner-Respondent,
-and-

LETITIA JAMES, Public Advocate for the
City of New York, and CLASS SIZE
MATTERS,

Petitioners-Interveners,

For a Judgment under Article 78 of the
Civil Practice Law and Rules

- against -

NEW YORK CITY DEPARTMENT OF
EDUCATION and CARMEN FARIÑA,
Chancellor of the New York City
Department of Education,

Respondents-Appellants.

**AFFIRMATION OF
ROBIN F. SINGER
IN SUPPORT OF
CROSS-MOTION**

New York County
Index No. 100438/14

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ROBIN F. SINGER, an attorney admitted to practice in the
State of New York and Senior Associate Counsel for the New York City
Department of Education, hereby affirms that the following statements
are true, under penalty of perjury:

1. As Senior Associate Counsel, my responsibilities include
handling litigation matters, advising on legal and educational policy

matters, and drafting Chancellor's Regulations. I drafted the current version of Chancellor's Regulation A-655, the regulation mandating that every City public school have a School Leadership Team ("SLT") and describing the composition and functions of SLTs. I also advise principals and central offices concerning SLT issues. This affirmation is based on my personal knowledge.

2. I submit this affirmation (a) in opposition to the motion for a declaration that no automatic stay pursuant to CPLR 5519(a) is in effect; and (b) in support of the cross-motion by the New York City Department of Education for an order granting either a declaration that there is an automatic stay in effect or a discretionary stay pursuant to CPLR 5519(c) pending the determination of the appeal.

A. School Leadership Teams

3. School Leadership Teams ("SLTs") are school-based committees that consult with and advise the principal of a public school, make recommendations concerning student achievement, and provide a plan concerning the educational goals of the school, known as the Comprehensive Educational Plan ("CEP"). Chancellor's Regulations A-655, § III (B) identifies three mandatory members for every SLT: the

school principal, the president of the parent association, and the chapter leader of the United Federation of Teachers.¹

4. SLTs also have non-mandatory members, including parents of students attending the school and staff (pedagogic and/or non-pedagogic) from the school. Chan. Reg. A-655 at § III(C)(1). They may also include students (a minimum of two students is required in high schools) and representatives from Community Based Organizations. *See* Chan. Reg. A-655 at § III(C)(2).

5. The purpose of an SLT is to “create a structure for school-based decision-making and shape the path to a collaborative culture.” *See* Chan. Reg. A-655 at § I. Using a discussion and consensus-based model, SLTs assist the school administration in evaluating and assessing a school’s educational programs and their effect on student achievement. *Id.* SLTs make recommendations concerning educational policy and create educational goals for the school, which are incorporated into the CEP. *See* Chan. Reg. A-655 at §§ II(A)(1), (2). The CEP must be aligned with the school-based budget, which the principal is responsible for creating. *See* Chan. Reg. A-655 at ¶ II(A)(2). The CEP

¹ The relevant regulations are annexed to the Affidavit of Linda Hill as Exhibit “A.”

and the budget must be submitted to the Superintendent, along with the principal's explanation of their alignment, and the Superintendent is responsible for reviewing and approving the budget and certifying that the CEP and budget are aligned. *Id.* at § II(A)(5). The principal and school administration are responsible for the implementation of the CEP and the school budget. *See Id.* at §§ II(A)(2), (5); *see also* N.Y. Educ. Law 2590i(i).

6. Chancellor's Regulation A-655 also requires SLTs to develop bylaws addressing various issues to provide "clear direction" about SLT responsibilities. *See* Chan. Reg. A-655 at §XII. The I.S. 49 SLT bylaws, for example, expressly state that SLT meetings are only open to members of the school community: "The regularly scheduled team meetings will be open to members of the school community. The school community shall consist of parents of children currently attending the school, staff and liaisons to the school (i.e., CEC representations). Members of the school community who are not team members may request speaking time at meetings to discuss specific topics." *See* I.S. 49 SLT bylaws, annexed to Hill Aff, as Exhibit "D" at Article III, § 3. That

is why Mr. Thomas was denied permission to attend that school's SLT meeting.

B. Implementing the lower court's order

7. If there is no stay pending appeal, the financial and administrative burdens on the Department will be onerous and extensive, because there are more than 1,800 public schools in the City school district, and each one has its own SLT. Subjecting SLT meetings to the Open Meetings Law pending this appeal would involve substantial preparations under an extremely tight deadline, as the new school term begins on September 9, 2015. It would involve the creation of training programs, the implementation of many new procedures, and even the possibility of live-streaming each SLT meeting.

8. SLT meetings have never before been open to members of the press and the general public. As these individuals typically have no direct connection to the school community, this raises substantial safety and privacy concerns, particularly because SLT meetings take place in schools and can occur when children are present in the building. The Department would need to assess the security issues and implement

new procedures to keep the children safe from the potential influx of strangers and media into the building.

9. Implementing the lower court's order would also require extensive training of each of more than 1,800 SLTs in the requirements of the Open Meetings Law. For example, SLTs may have to go into executive, or closed, session. Each SLT team must be trained in how to conduct meetings in conformity with parliamentary procedure and when and how to go into executive session.²

10. Team members must also be trained about the requirement to take minutes at all open meetings, which must consist of a record or summary of all motions, proposals, resolutions, and any other matter formally voted upon. Minutes must also be made available to the public in accordance with the provisions of the Freedom of Information Law within two weeks from the date of the SLT meeting, except for minutes taken of executive sessions, which shall be available to the public

² A public body may go into executive session to discuss matters that imperil the public safety, such as School Safety Plans; matters that disclose the identity of a law enforcement agent or informer; information relating to current or future investigations; discussions regarding proposed, pending or current litigation; negotiations pursuant to Article 14 of the civil service law; the medical, financial, credit or employment history of a person, or matters leading to the appointment, promotion, demotion, discipline or remove of a person; the preparation, grading or administration of examinations; and the proposed acquisition, sale or lease of real property. P.O.L. §105.

within one week of the executive session. This is a new procedure that would have to be established and complied with at each public school.

11. Training each of the Department's 1,800 SLTs would be of critical importance, because these teams are comprised of mainly of volunteer parents, administrators, teachers, non-pedagogical staff, and as indicated above, students, none of whom are public officials or have experience administering the requirements of the Open Meetings Law. They can inadvertently incur legal liability for any failure to comply with the Open Meetings Law, and their actions could be declared void. Costs and reasonable attorneys' fees may be awarded in ensuing litigation.

12. If subject to the Open Meetings Law, SLT meetings would, under P.O.L. §103, "be open to being photographed, broadcast, webcast, or otherwise recorded and/or transmitted by audio or video means." That is of particular concern to the Department because there are SLT members who are students and also because of the sensitive matters discussed during SLT meetings, as described below.

13. The City Council also requires that public meetings be live-streamed. N.Y.C. Charter §1063(d). It is unclear whether this new law

would apply to SLT meetings, but if it does apply, the time and expense involved in complying with that provision in 1,800 public schools would be enormous. It would also raise significant privacy issues.

14. Making SLT meetings subject to the Open Meetings Law will likely deter parents and staff from volunteering to serve on SLTs. SLT members have never before been deemed to be public officials and never agreed to undertake these legal obligations when they volunteered to serve. The parent association president and union chapter leader are designated mandatory members of the SLT and will be forced to accept these new requirements, and that may deter them from volunteering to serve as parent association president or union chapter leader.

C. SLT members consult on sensitive issues

15. SLTs serve in an advisory capacity on many issues, and that collaboration is best served by protecting communications that are exchanged solely for discussion purposes and do not constitute final policy decisions. For example, SLTs are consulted on decisions to close the school or to co-locate another school in the building. The

superintendent must consult with the SLT regarding school restructuring plans.

16. SLTs must review and approve the School Safety Plan, and while they may go into executive session for those discussions, SLTs would still need to disseminate minutes to the public. That poses obvious concerns to the parents whose children attend that school, as well as to the school community.

17. SLTs consult on the highly sensitive process of hiring principals and assistant principals, and while they would need to go into executive session on these issues as well, the minutes would still be made public. Having to distribute public minutes relating to those discussions would likely suppress the free exchange of ideas that make each SLT a valuable advisory body.

18. SLTs also need to advise the principal concerning school-based problems and emergencies. SLTs discuss confidential issues concerning student well-being, discipline and achievement. Those issues will need to be discussed at the open meeting, and the repercussions of releasing that private information is self-evident.

19. SLTs also devise a Comprehensive Education Plan, laying out the academic goals for the school for the following year. If members of the public who had no connection to the school, or who were motivated by goals other than advancing the educational welfare of the children in the school, were allowed to attend SLT meetings, they could be disruptive and impede the consensus-based decision-making process that is required of SLTs.

20. I cannot anticipate every issue that will arise if the Department is forced to implement the lower court's order pending appeal, because SLTs have never before been subject to the Open Meetings Law. However, the foregoing indicates the scope and complexity of some of the implementation issues that will result in the absence of a stay pending appeal.

Dated: New York, New York
August 6, 2015


ROBIN F. SINGER

AFFIRMATION OF SERVICE ON ATTORNEY BY EMAIL ON CONSENT

STATE OF NEW YORK, COUNTY OF NEW YORK, SS:

The undersigned, an attorney duly admitted to the bar of the State of New York, deposes and says :

That on the 6th day of August 2015, she served the annexed Cross-Motion upon:

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JANE L. GORDON
Senior Counsel

Gordon, Jane (Law)

From: Mark Ladov <mladov@nylpi.org>
Sent: Wednesday, August 05, 2015 3:19 PM
To: Gordon, Jane (Law)
Cc: 'lbarbieri@advocatesny.com'
Subject: RE: this is my email

Thanks – I'm cc'ing Laura Barbieri so you have her email as well.

You have our consent to serve papers for our clients by email. I'll relay our discussion to Mr. Thomas as well.

Talk to you soon,

Mark Ladov
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Sent: Wednesday, August 05, 2015 3:06 PM
To: Mark Ladov <mladov@nylpi.org>
Subject: this is my email

Speak to you tomorrow.

Jane

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N.Y. Co. Index No. 100538/14

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of the New York City Department of Education,

Respondents-Respondents.

**CROSS-MOTION TO DECLARE A STAY
PENDING APPEAL OR FOR A
DISCRETIONARY STAY**

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