

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

EMPLOYEE 1 and  
EMPLOYEE 2,

Plaintiffs,

v.

NEW YORK CITY DEPARTMENT  
OF EDUCATION,

Defendant.

**Case No. 22-CV-5265-DLI-VMS**

**PLAINTIFFS' FIRST SET  
OF DISCOVERY REQUESTS**

Plaintiffs Employee 1 and Employee 2, by their undersigned attorney, serve the following first set of discovery requests on Defendant New York City Department of Education (DOE), pursuant to the Federal Rules of Civil Procedure and the Local Civil Rules of the SDNY.

Responses to these requests are due within 30 days of service, unless otherwise agreed by the parties or ordered by the Court.

Each interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath. The grounds for objecting to an interrogatory must be stated with specificity.

In answering the document requests, Defendant is required to produce responsive documents or electronically stored information in its possession, custody, or control. Any objections must be stated with specificity and must state whether any responsive materials are being withheld on the basis of that objection.

These requests are continuing in nature and must be supplemented or corrected in accordance with FRCP 26(e).

These discovery requests are intended, and shall be construed, to demand disclosure of any matter that is relevant to any party's claim or defense and proportional to the needs of the case, whether or not the matter is admissible in evidence.

You must provide an appropriate privilege log for all documents withheld on the basis of the attorney-client communications privilege, the attorney work product privilege, or any other alleged grounds for nondisclosure.

Note: These discovery requests are not intended, and should not be construed, to demand disclosure of privileged communications between Defendant and the New York City Law Department in this case or defense counsel's work product in this case.

The uniform definitions in discovery requests set forth in Local Civil Rule 26.3 are incorporated herein by reference.

### **Interrogatories**

#### *Employee 1*

1. Identify all persons who were personally involved in reviewing, discussing, evaluating, and/or deciding to deny Employee 1's initial application for a religious exemption to DOE's COVID-19 vaccine mandate, as alleged in the Complaint ¶¶ 21-23, including each person's name, department, and job title.
2. Identify all persons who were personally involved in reviewing, discussing, evaluating, and/or responding to Employee 1's appeal to the arbitrator, as alleged in the Complaint ¶¶ 26-27, including each person's name, department, and job title.
3. Identify all persons who were personally involved in reviewing, discussing, evaluating, and/or responding to Employee 1's appeal to the Citywide Panel, as alleged in the Complaint ¶¶ 30-32, including each person's name, department, and job title.
4. Identify the members of the Citywide Panel who were personally involved in reviewing, discussing, evaluating, and/or deciding to deny Employee 1's appeal, as alleged in the Complaint ¶ 32, including each person's name, agency, department, and job title.
5. If Defendant contends that it would have caused an undue hardship to grant Employee 1 a religious exemption to the DOE's COVID-19 vaccine mandate, identify, with as much specificity as possible, the nature, scope, and cost of this alleged undue hardship.

#### *Employee 2*

6. Identify all persons who were personally involved in reviewing, discussing, evaluating, and/or deciding to deny Employee 2's initial application for a religious exemption to DOE's COVID-19 vaccine mandate, as alleged in the Complaint ¶¶ 52-53, including each person's name, department, and job title.
7. Identify all persons who were personally involved in reviewing, discussing, evaluating, and/or responding to Employee 2's appeal to the arbitrator, as alleged in the Complaint ¶¶ 56-57, including each person's name, department, and job title.
8. If Defendant contends that it would have caused an undue hardship to grant Employee 2 a religious exemption to the DOE's COVID-19 vaccine mandate, identify, with as much specificity as possible, the nature, scope, and cost of this alleged undue hardship.

### *Comparators*

9. Identify all school psychologists for whom the DOE approved a religious exemption to the DOE's COVID-19 vaccine mandate. For each such person, provide his/her name (or unique anonymizing identifier), school, grade, and description of "reasonable accommodations" required in lieu of the vaccination.
10. Identify all classroom teachers for whom the DOE approved a religious exemption to the DOE's COVID-19 vaccine mandate. For each such person, provide his/her name (or unique anonymizing identifier), school, grade, and description of "reasonable accommodations" required in lieu of the vaccination.
11. Identify all school paraprofessionals for whom the DOE approved a religious exemption to the DOE's COVID-19 vaccine mandate. For each such person, provide his/her name (or unique anonymizing identifier), school, grade, subject matter, and description of "reasonable accommodations" required in lieu of the vaccination.
12. Identify all Principals and Vice-Principals for whom the DOE approved a religious exemption to the DOE's COVID-19 vaccine mandate. For each such person, provide his/her name (or unique anonymizing identifier), school, grade, and description of "reasonable accommodations" required in lieu of the vaccination.
13. Identify all school psychologists for whom the arbitrator approved a religious exemption to the DOE's COVID-19 vaccine mandate. For each such person, provide his/her name (or unique anonymizing identifier), school, grade, and description of "reasonable accommodations" required in lieu of the vaccination.
14. Identify all classroom teachers for whom the arbitrator approved a religious exemption to the DOE's COVID-19 vaccine mandate. For each such person, provide his/her name (or unique anonymizing identifier), school, grade, and description of "reasonable accommodations" required in lieu of the vaccination.
15. Identify all school paraprofessionals for whom the arbitrator approved a religious exemption to the DOE's COVID-19 vaccine mandate. For each such person, provide his/her name (or unique anonymizing identifier), school, grade, subject matter, and description of "reasonable accommodations" required in lieu of the vaccination.
16. Identify all Principals and Vice-Principals for whom the arbitrator approved a religious exemption to the DOE's COVID-19 vaccine mandate. For each such person, provide his/her name (or unique anonymizing identifier), school, grade, and description of "reasonable accommodations" required in lieu of the vaccination.
17. Identify all school psychologists for whom the Citywide Panel approved a religious exemption to the DOE's COVID-19 vaccine mandate. For each such person, provide his/her name (or unique anonymizing identifier), school, grade, and description of "reasonable accommodations" required in lieu of the vaccination.

18. Identify all classroom teachers for whom the Citywide Panel approved a religious exemption to the DOE's COVID-19 vaccine mandate. For each such person, provide his/her name (or unique anonymizing identifier), school, grade, and description of "reasonable accommodations" required in lieu of the vaccination.
19. Identify all school paraprofessionals for whom the Citywide Panel approved a religious exemption to the DOE's COVID-19 vaccine mandate. For each such person, provide his/her name (or unique anonymizing identifier), school, grade, subject matter, and description of "reasonable accommodations" required in lieu of the vaccination.
20. Identify all Principals and Vice-Principals for whom the Citywide Panel approved a religious exemption to the DOE's COVID-19 vaccine mandate. For each such person, provide his/her name (or unique anonymizing identifier), school, grade, and description of "reasonable accommodations" required in lieu of the vaccination.

### **Document Requests**

#### *Employee 1*

1. All files, folders, documents, memoranda, notes, notations, emails, text/instant messages, and any other written or recorded materials (including electronic/computer materials) prepared, received, reviewed, and/or maintained by the DOE concerning Employee 1's application for a religious exemption to DOE's COVID-19 vaccine mandate.
2. For all persons identified in response to Interrogatory #1, any handwritten/electronic notes, notations, emails, and text/instant messages authored, sent, or received by each such person concerning Employee 1's application for a religious exemption to DOE's COVID-19 vaccine mandate.
3. For all persons identified in response to Interrogatory #1, any emails, social media posts, and text/instant messages authored, sent, or received by each such person concerning COVID-19, COVID-19 vaccinations, vaccine exemptions, and/or "anti-vaxxers."
4. For all persons identified in response to Interrogatory #2, any handwritten/electronic notes, notations, emails, and text/instant messages authored, sent, or received by each such person concerning Employee 1's appeal to the arbitrator.
5. All documents submitted to and all communications, including emails, with the arbitrator/arbitration company in connection with Employee 1's appeal to the arbitrator.

6. For all persons identified in response to Interrogatory #3, any handwritten/electronic notes, notations, emails, and text/instant messages authored, sent, or received by each such person concerning Employee 1's appeal to the Citywide Panel.
7. All documents submitted to and all communications, including emails, with the Citywide Panel in connection with Employee 1's appeal to the Citywide Panel.
8. For all persons identified in response to Interrogatory #4, any handwritten/electronic notes, notations, emails, and text/instant messages authored, sent, or received by each such person concerning Employee 1's appeal to the Citywide Panel.
9. For all persons identified in response to Interrogatory #4, any emails, social media posts, and text/instant messages authored, sent, or received by each such person concerning COVID-19, COVID-19 vaccinations, vaccine exemptions, and/or "anti-vaxxers."
10. If Defendant contends that it would have caused an undue hardship to grant Employee 1 a religious exemption to the DOE's COVID-19 vaccine mandate, all documents that Defendant will or may use to support this position.

*Employee 2*

11. All files, folders, documents, memoranda, notes, notations, emails, text/instant messages, and any other written or recorded materials (including electronic/computer materials) prepared, received, reviewed, and/or maintained by the DOE concerning Employee 2's application for a religious exemption to DOE's COVID-19 vaccine mandate
12. For all persons identified in response to Interrogatory #5, any handwritten/electronic notes, notations, emails, and text/instant messages authored, sent, or received by each such person concerning Employee 2's application for a religious exemption to DOE's COVID-19 vaccine mandate.
13. For all persons identified in response to Interrogatory #5, any emails, social media posts, and text/instant messages authored, sent, or received by each such person concerning COVID-19, COVID-19 vaccinations, vaccine exemptions, and/or "anti-vaxxers."
14. For all persons identified in response to Interrogatory #6, any handwritten/electronic notes, notations, emails, and text/instant messages authored, sent, or received by each such person concerning Employee 2's appeal to the arbitrator.
15. All documents submitted to and all communications, including emails, with the arbitrator/arbitration company in connection with Employee 2's appeal to the arbitrator.

16. If Defendant contends that it would have caused an undue hardship to grant Employee 2 a religious exemption to the DOE's COVID-19 vaccine mandate, all documents that Defendant will or may use to support this position.

*General*

17. All policies, procedures, guidances, directives, memoranda, decision trees, algorithms, and any other written or recorded materials (including electronic/computer materials) concerning the DOE's process for deciding whether or not to approve applications for religious exemptions to DOE's COVID-19 vaccine mandate.
18. Documents, including reports, memoranda, spreadsheets, and statistical compilations, concerning applications for religious exemptions to DOE's COVID-19 vaccine mandate submitted by DOE employees, at any time from 8/1/21 to 2/28/22, and showing any of the following:
  - The number of religious exemption applications;
  - The number of religious exemptions approved;
  - The number of religious exemptions denied;
  - Statistical breakdowns by departments;
  - Statistical breakdowns by job sites;
  - Statistical breakdowns by job titles;
  - Statistical breakdowns by religion;
  - Statistical breakdowns by race;
  - Statistic breakdowns by age/seniority/years of service;
  - Any other statistical breakdowns prepared by DOE.
19. Opinion letters, studies, reports, memoranda, and similar documents, including websites, which DOE at any time commissioned, obtained, consulted, or relied upon, that are authored by any medical or scientific or engineering professionals and that offer any opinions or recommendations about health and safety precautions, procedures, and best practices for dealing with COVID-19 in schools and classrooms.
20. Opinion letters, studies, reports, memoranda, and similar documents, including websites, which DOE at any time commissioned, obtained, consulted, or relied upon, that are authored by any medical or scientific or engineering professionals and that offer any opinions or recommendations about the role and effectiveness of COVID-19 vaccines in dealing with COVID-19 in schools and classrooms.

*Comparators*

21. For each employee identified in response to Interrogatory #9 through #20, the following documents (which may be appropriately anonymized): application for religious exemption, answers to follow-up questions (if any), all materials submitted in support of application, correspondence to/from the DOE Human Capital/Human Resources, all materials submitted in support of appeals (if any), approval notification, any conditions or restrictions for working without vaccination.

22. All other documents that Defendant will or may use to support its defenses in this action.

***For Plaintiffs Employee 1  
and Employee 2:***

*/s/ Steven M. Warshawsky*

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Dated: December 30, 2022

To: Assistant Corporation Counsel  
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VIA EMAIL ONLY