

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND

Index No. _____

MYMOENA DAVIDS, by her parent and natural guardian MIAMONA DAVIDS, ERIC DAVIDS, by his parent and natural guardian MIAMONA DAVIDS, ALEXIS PERALTA, by her parent and natural guardian ANGELA PERALTA, STACY PERALTA, by her parent and natural guardian ANGELA PERALTA, LENORA PERALTA, by her parent and natural guardian ANGELA PERALTA, ANDREW HENSON, by his parent and natural guardian CHRISTINE HENSON, ADRIAN COLSON, by his parent and natural guardian JACQUELINE COLSON, DARIUS COLSON, by his parent and natural guardian JACQUELINE COLSON, SAMANTHA PIROZZOLO, by her parent and natural guardian SAM PIROZZOLO, FRANKLIN PIROZZOLO, by her parent and natural guardian SAM PIROZZOLO, IZAIYAH EWERS, by his parent and natural guardian KENDRA OKE, on behalf of themselves and others similarly situated,

Plaintiffs,

-against-

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

Defendants.

SUMMONS

TO: Office of the Attorney General
120 Broadway, 24th Floor
New York, NY 10271

The New York State Board of Regents
State Education Building
89 Washington Avenue, Room 110
Albany, New York 12234

The New York State Education Department
State Education Building
89 Washington Avenue, Room 110
Albany, New York 12234

Corporation Counsel of the City of New York
100 Church Street
New York, NY 10007

The New York City Department of Education
65 Court Street
Brooklyn, New York, 11201

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiff's attorney within 20 days after service of this summons, exclusive of the day of service (or within 30 days after service is complete if this summons is not personally delivered to you within the State of New York); and in the case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is plaintiff's residence.

Dated: June 30, 2014
Staten Island, New York

Yours, etc.

JONATHAN W. TRIBIANO, PLLC

/S/ JONATHAN W. TRIBIANO, ESQ.
JONATHAN W. TRIBIANO, ESQ.
1811 Victory Boulevard
Staten Island, NY 10314
Tel.: (718) 530-1445

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND

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Plaintiffs,

**VERIFIED CLASS
ACTION COMPLAINT**

-against-

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

Defendants.

PRELIMINARY STATEMENT

1. NYC Parents Union (<http://www.nycparentsunion.org/>) is coordinating the filing of this Class Action Lawsuit against the State of New York, the New York State Board of Regents ("Board of Regents"), the New York State Education Department

("NYSED"), the City of New York and the New York City Department of Education ("NYCDOE") to compel these institutions to protect our children's rights and to fulfill their New York State Constitutional mandate to offer all children the opportunity of a sound basic education.

2. At the heart of the discussion is teacher tenure. The New York State Education Law ("N.Y. Education Law") has been amended to remove many references to the word "tenure." However, the tenure concept and its appurtenant protections are found throughout the N.Y. Education Law, particularly in sections 1102(3), 2509, 2573, 2590(j), 3012, 3014 and 3020-a (the "Tenure Laws"). The word "tenure" is specifically mentioned in section 3020-a, which defines disciplinary procedures and penalties.

3. To be clear from the outset, neither the NYC Parents Union nor any of the parents of the named plaintiffs are against tenure *per se*. In fact, our State Legislature has declared that tenure has been found to advance the public interest in the education of our youth as a system designed to foster academic freedom in our schools and to protect competent teachers from the abuses they might be subjected to if they could be dismissed at the whim of their supervisors.

4. The NYC Parents Union and the parents of the named plaintiffs think it's simple: reward and retain excellent teachers and hold those accountable who are failing our children. An education system that gives every child a sound basic education consists of teaching skills that enable students to undertake civil responsibilities meaningfully. It is the opportunity for a meaningful education, one which prepares children to function productively as civic participants capable of voting and serving on a jury. The right to such an education means that children are entitled to schools that provide a myriad of

essentials, the most important of which is sufficient personnel adequately trained to teach basic, up-to-date curricula such as reading, writing, mathematics, science, and social studies.

5. While the NYC Parents Union and the parents of the named plaintiffs recognize the constitutionally-protected procedural due process rights that teachers with tenure enjoy, namely notice and an opportunity to be heard with respect to any disciplinary or removal procedure, especially with respect to the charges that a teacher is ineffective and cannot deliver the sound basic education guaranteed by the New York State Constitution, we believe the Tenure Laws, the adjudicative framework contained within N.Y. Education Law and the implementation of that framework by the Board of Regents, the NYSED and the NYCDOE is gross and glaringly inadequate and effectively deprives the delivery of said constitutionally-guaranteed sound basic education to an exceedingly worrisome number of children in our City and State.

6. Additionally, the Tenure Laws and other procedures contained within the N.Y. Education Law and implemented by the Board of Regents, the NYSED and the NYCDOE related to teacher layoffs and re-hiring are similarly problematic and unconstitutional. The existing framework give no consideration to the minimum Constitutional requirement of teacher competence when layoffs become necessary. The state requires a quality-blind approach to layoffs that considers only years of service—and completely ignores job performance and the ability to deliver a sound quality education. The N.Y. Education Law and the related administrative procedures consider only tenure and/or career longevity as the sole determinant factor with respect to which teachers are laid off in hiring cuts and as to which teachers are hired back when jobs re-

open. We believe that this framework is grossly and glaringly inadequate as it fails to give due consideration of the ability of a teacher to deliver a constitutionally guaranteed sound quality education to the direct detriment of our children. This framework is not only severely misplaced, but unconstitutional.

7. As such, this lawsuit will seek to declare the present N.Y. Education Law and its implementation via the Board of Regents, the NYSED and the NYCDOE is gross and glaringly inadequate in several ways:

- a. Tenure and the Tenure Laws cannot serve as an absolute shield as to the dismissal of incompetent teachers who cannot meet the Constitutionally-required minimum standards of competence in order to deliver a sound basic education.
- b. Tenured teachers have Constitutionally-protected procedural due process rights to a hearing and an opportunity to be heard prior to their dismissal. However the process for dismissing a single ineffective teacher far exceeds the level of protection required under the Constitution.
- c. For-cause dismissal for incompetence involves a borderline infinite number of steps, requires years of documentation, costs hundreds of thousands of dollars and still, rarely ever works.
- d. In New York City, the largest school system in the state, only 12 teachers—out of 75,000 in any given year—were formally replaced because of poor performance over an entire decade from 1997 to 2007. Teachers in New York City are more likely to die on the job than be replaced because of poor performance.

- e. All told, it can take up to 18 months and cost taxpayers \$250,000 to replace a single poorly-performing teacher. Principals must spend hours filling out paperwork and attending hearings.
- f. Teachers who received multiple “unsatisfactory” ratings, missed entire weeks of work, or even physically abused students can remain in the classroom over the objections of their schools.
- g. Low-income and minority students get less effective teachers. Disadvantaged students receive less effective teaching, on average, compared with other students. In other words, the students who need a sound basic education the most are least likely to get a competent teacher to deliver it. This is not just wrong but is a violation of the equal protection of the laws.

8. Politicians - Public and Elected Officials in New York have not listened, in large part because the power and money behind the teacher’s union exerts an inordinate amount of influence on politicians and their campaign contributions - effectively leaving parents and administrators without a seat at the table. The latest example is New York City’s new contract with its teachers’ union, which will continue many of the same unconstitutional policies that have failed students and their families for decades.

9. In light of the watershed decision in the case of *Vergara v. California*, the NYC Parents Union and the parents of the named plaintiffs believe that the time is ripe to step up and advocates for the rights of all New Yorkers and all of the children in our public schools.

JURISDICTION AND VENUE

10. The New York State Supreme Court is the court of original jurisdiction in causes of action for declaratory judgment and injunctive relief for applications involving the interpretation and applicability of the New York State Constitution.

11. The New York State Supreme Court may render a declaratory judgment having the effect of a final judgment as to the rights and other legal relations of the parties to a justiciable controversy whether or not further relief is or could be claimed. CPLR Sec. 3001

12. Venue lies in this court as Defendants' acts, decisions, and other material events have arisen within this judicial district. CPLR Sec. 506(b).

13. Similarly, at least one of the parties resides within Richmond County where this court is situated. CPLR Sec. 503(a).

CLASS ACTION ALLEGATIONS

14. The action is brought as a class action pursuant to the provisions of Article Nine of the CPLR. The class consists of New York State children who have been, as a result of the gross and glaring inadequacy of the N.Y. Education Law and its implementation under the Board of Regents, the NYSED and the NYCDOE, denied a sound basic education as guaranteed by the New York State Constitution.

15. The Education Article of the New York State Constitution requires the State to offer all children the opportunity of a sound basic education." *Campaign for Fiscal Equity, Inc. v. State of New York*, 8 N.Y.3d 14, 20 (N.Y. 2006); *Paynter v. State*, 100 N.Y.2d 434 (N.Y. 2003); *Campaign for Fiscal Equity v State of New York*, 86 NY2d 307, 316, 655 NE2d 661, 631 NYS2d 565 (N.Y. 1995).

16. The exact number of Plaintiffs' class members is not known. Plaintiffs estimate that the class includes hundreds of thousands of New York children and thus is so numerous that joinder of individual members is impractical. The number and identities of the class members can only be ascertained through appropriate discovery.

17. Questions of law and fact common to the class predominate over any questions affecting only individual members of the class.

18. The common questions of fact include but are not limited to:

- a. Defendants' gross and glaring failure to deliver a sound quality education;
- b. The extent to which Defendants' gross and glaring failure to deliver a sound quality education is a substantial factor in poor student performance. Last year, only about 3 in 10 students across the state scored "proficient" or better on annual reading and math tests. In two of the state's largest school districts, fewer than 1 in 10 students passed these tests;
- c. The extent to which the Tenure Laws and other applicable N.Y. Educational Law and its implementation is costing New York taxpayers. All told, it can take up to 18 months and cost taxpayers \$250,000 to replace a single poorly-performing teacher;

19. The common questions of law include but are not limited to:

- a. Whether the framework of the Tenure Laws and the applicable provisions of the N.Y. Education Law deprive New York students of their right to a sound basic education under the New York State Constitution on its face;
- b. Whether the framework of the Tenure Laws and the applicable provisions of the N.Y. Education Law deprive New York students of their right to a

sound basic education under the New York State Constitution in its implementation;

- c. Whether the framework of the Tenure Laws and the applicable provisions of the N.Y. Education Law in its implementation unconstitutionally and disproportionately deprives minority and low income New York students of their right to a sound basic education under the New York State Constitution in violation of the equal protection of the laws under the New York State Constitution and under Fourteenth Amendment to the Federal Constitution.

20. The claims of the individually named Plaintiffs, all of whom are New York public school students, are typical of the claims of the Plaintiff class members. The Plaintiffs and all members of the Plaintiff class have been similarly affected by the Defendants' course of conduct and the members of the class have similarly situated claims and causes of action against the Defendants.

21. There is no conflict between the named Plaintiffs and other class members with respect to this action or the claims and requested relief herein. The claims or defenses of the representative parties are typical of the claims or defenses of the class.

22. Plaintiffs and their attorneys are able to and will fairly and adequately protect the interest of the class. Plaintiffs' attorneys can vigorously prosecute the rights of the proposed class members.

23. The prosecution of separate actions by individual Plaintiffs is not feasible or efficient and would be unduly burdensome. Individual prosecution will create the risk of inconsistent and varying adjudications and will establish incompatible standards of conduct for the Defendants.

24. A class action is superior to the other available methods for the fair, just and efficient adjudication of the controversy.

25. The class action device allows a single court to provide the benefits of a single adjudication, conserving judicial economy and the fair and equitable handling of all of Plaintiffs' claims in a single action and forum.

PARTIES

26. Plaintiff Mymoena Davids is a child who resides in the State of New York and is guaranteed a sound basic education. Plaintiff Mymoena Davids is African-American and attends public school in New York City. Miamona Davids, is a single, unemployed mother, is the parent and natural guardian of Plaintiff Mymoena Davids and intends to file a petition with the court to act as guardian ad litem. Miamona Davids is the President of the NYC Parents Union, a volunteer organization.

27. Plaintiff Eric Davids is a child who resides in the State of New York and is guaranteed a sound basic education. Plaintiff Eric Davids is African-American and attends public school in New York City. Miamona Davids, an unemployed single mother, is the parent and natural guardian of Plaintiff Eric Davids and intends to file a petition with the court to act as guardian ad litem. Miamona Davids is the President of the NYC Parents Union, a volunteer organization.

28. Plaintiff Alexis Peralta is a child who resides in the State of New York, County of Richmond, and is guaranteed a sound basic education. Plaintiff Alexis Peralta attends public school in New York City. Angela Peralta, a Hispanic single mother, is the parent and natural guardian of Plaintiff Alexis Peralta and intends to file a petition with the court to act as guardian ad litem.

29. Plaintiff Stacy Peralta is a child who resides in the State of New York, County of Richmond, and is guaranteed a sound basic education. Plaintiff Stacy Peralta attends public school in New York City. Plaintiff Stacy Peralta has special needs. Angela Peralta, a Hispanic single mother, is the parent and natural guardian of Plaintiff Stacy Peralta and intends to file a petition with the court to act as guardian ad litem.

30. Plaintiff Lenora Peralta is a child who resides in the State of New York, County of Richmond, and is guaranteed a sound basic education. Plaintiff Lenora Peralta attends public school in New York City. Plaintiff Lenora Peralta attends public school in New York City. Angela Peralta, a Hispanic single mother, is the parent and natural guardian of Plaintiff Lenora Peralta and intends to file a petition with the court to act as guardian ad litem.

31. Plaintiff Andrew Henson is a child who resides in the State of New York and is guaranteed a sound basic education. Plaintiff Andrew Henson attended public school in New York City until he was the victim of a teacher assault. Christine Henson is the parent and natural guardian of Plaintiff Andrew Henson and intends to file a petition with the court to act as guardian ad litem.

32. Plaintiff Adrian Colson is a child who resides in the State of New York and is guaranteed a sound basic education. Plaintiff Adrian Colson attends public school in New York City. Jacqueline Colson is the parent and natural guardian of Plaintiff Adrian Colson and intends to file a petition with the court to act as guardian ad litem.

33. Plaintiff Darius Colson is a child who resides in the State of New York and is guaranteed a sound basic education. Plaintiff Darius Colson attends public school in

New York City. Jacqueline Colson is the parent and natural guardian of Plaintiff Darius Colson and intends to file a petition with the court to act as guardian ad litem.

34. Plaintiff Samantha Pirozzolo is a child who resides in the State of New York, County of Richmond, and is guaranteed a sound basic education. Plaintiff Samantha Pirozzolo attends public school in New York City. Sam Pirozzolo is the parent and natural guardian of Plaintiff Samantha Pirozzolo and intends to file a petition with the court to act as guardian ad litem. Sam Pirozzolo is the Vice President of the NYC Parents Union.

35. Plaintiff Franklin Pirozzolo is a child who resides in the State of New York, County of Richmond, and is guaranteed a sound basic education. Plaintiff Franklin Pirozzolo attends public school in New York City. Sam Pirozzolo is the parent and natural guardian of Plaintiff Franklin Pirozzolo and intends to file a petition with the court to act as guardian ad litem. Sam Pirozzolo is the Vice President of the NYC Parents Union.

36. Plaintiff Izaiyah Ewers is a child who resides in the State of New York and is guaranteed a sound basic education. Plaintiff Izaiyah Ewers attends public school in New York City. Kendra Oke is the parent and natural guardian of Plaintiff Izaiyah Ewers and intends to file a petition with the court to act as guardian ad litem.

37. Defendant the State of New York (the "State") is responsible for the operation, financing and administration of the New York State public school system.

38. Defendant Regents of the University of the State of New York ("Board of Regents") is an executive department of the State of New York. Its offices are located at State Education Building, 89 Washington Avenue, Room 110, Albany, New York 12234. Pursuant to the power delegated to it by the New York Legislature, the Board of Regents determines educational policies, and promulgates rules to effectuate

New York State education laws and policies. The Board of Regents presides over the New York Education Department and appoints a Commissioner of Education who is responsible for the direct management of the New York Education Department N.Y. Const. Art V, § 4; N.Y. Education Law § 207.

39. Defendant the New York State Education Department (the "NYSED") is an executive agency of the State of New York. Its office is located at State Education Building, 89 Washington Avenue, Room 110, Albany, New York 12234. The Education Department implements the policies of the Board of Regents under the Commissioner's direction.

40. Defendant the City of New York (the "City") is responsible for the operation, financing and administration of the New York City public school system.

41. Defendant the New York City Department of Education ("NYCDOE") is an administrative agency of the City of New York. It has offices located at 65 Court Street, Brooklyn, New York, 11201.

STATEMENT OF FACTS

42. The State, the Board of Regents, the NYSED, the City and the NYCDOE (together the “Defendants”) have failed the children of New York City and State in its obligation to provide minimally acceptable educational services. The Plaintiffs hereto bring this action, inter alia, under the Education Article, N.Y. Const. art. XI, § 1 (the “Education Article”).

43. The legal framework under the Tenure Laws and the N.Y. Educational Law, as discharged by the Defendants, fails to deliver adequate resources into the classroom. As such, the Defendants fail to satisfy the constitutional promise under the Education Article of delivering a sound basic education.

44. The Education Article enshrined in the Constitution a State-local partnership in which people with a community of interest and a tradition of acting together to govern themselves make the basic decisions on funding and operating their own schools.

45. The premise of the Education Article is thus in part that a system of local school districts exists and will continue to do so because the residents of such districts have the right to participate in the governance of their own schools.

46. The Education Article creates a right to adequate instruction--which entails a duty on the Defendants’ part to bring the educational inputs locally available up to a minimum standard.

47. The Defendants have a duty to ensure that New York's public schools are able to teach the basic literacy, calculating, and verbal skills necessary to enable children to eventually function productively as civic participants capable of voting and serving on a jury.

48. In assessing adequacy of education, the standard is the constitutional minimum or floor. A sound basic education consists of teaching skills that enable students to undertake civil responsibilities meaningfully. It is the opportunity for a meaningful school education, one which prepares children to function productively as civic participants.

49. The tenure system as embodied in the Tenure Laws and the N.Y. Educational Law render it impossible for the Defendants to deliver a sound basic education to all students, as there is no recourse to remove incompetent teachers who cannot deliver a sound basic education as required by the Education Article.

50. The N.Y. Educational Law, as administered by the Defendants render it impossible for the Defendants to deliver a sound basic education to all students, as there is effectively no recourse to remove incompetent teachers who cannot deliver a sound basic education as required by the Education Article.

51. The tenure system as embodied in the Tenure Laws and the N.Y. Educational Law render it impossible for the Defendants to deliver a sound basic education to all students, as there is no consideration as to whether a teacher can deliver a sound basic education as required by the Education Article in layoff and rehiring situations.

52. The N.Y. Educational Law, as administered by the Defendants render it impossible for the Defendants to deliver a sound basic education to all students, as there is no consideration as to whether a teacher can deliver a sound basic education as required by the Education Article in layoff and rehiring situations.

53. The tenure system as embodied in the Tenure Laws and the N.Y. Educational Law render it impossible for the Defendants to deliver a sound basic education to all students, as there is no recourse to remove incompetent teachers who cannot deliver a sound basic education as required by the Education Article. Said failure to deliver basic education is even further pronounced in minority and low income schools, school districts and communities, and is a violation of Equal Protection of the laws guaranteed by the New York State and the Federal Constitutions.

54. The N.Y. Educational Law, as administered by the Defendants render it impossible for the Defendants to deliver a sound basic education to all students, as there is no recourse to remove incompetent teachers who cannot deliver a sound basic education as required by the Education Article. Said failure to deliver basic education is even further pronounced in minority and low income schools, school districts and communities, and is a violation of Equal Protection of the laws guaranteed by the New York State and the Federal Constitutions.

55. Schools can accurately identify their most and least effective teachers. Using multiple measures of performance—including classroom observations and students' progress on standardized tests—schools can accurately identify teachers who help their students learn the most, and those who struggle to help students learn at all. See Ensuring Fair and Reliable Measures of Effective Teaching. MET Project, 2013 available at: http://www.metproject.org/downloads/MET_Ensuring_Fair_and_Reliable_Measures_Practitioner_Brief.pdf [last visited June 30, 2014].

56. Defendants have a duty to identify which teachers fail to meet the minimum standards under the Education Article as to the delivery of a sound basic education.

57. Defendants have the ability to identify which teachers fail to meet the minimum standards under the Education Article as to the delivery of a sound basic education.

58. Defendants have failed to identify which teachers fail to meet the minimum standards under the Education Article as to the delivery of a sound basic education or Defendants have failed to undertake corrective action when Defendants have identified which teachers fail to meet the minimum standards under the Education Article as to the delivery of a sound basic education.

59. Quality-blind layoffs fail to consider whether teachers fail to meet the minimum standards under the Education Article as to the delivery of a sound basic education. See *Teacher Layoffs: An Empirical Illustration of Seniority v. Measures of Effectiveness*, available at:

<http://www.urban.org/publications/1001421.html> [last visited June 30, 2014].

Donald Boyd et al., 2010, *Assessing the Determinants and Implications of Teacher Layoffs*. Dan Goldhaber et al., 2010, available at:

<http://www.urban.org/publications/1001496.html> [last visited June 30, 2014].

60. Disadvantaged students, particularly minority and low income students, receive less effective teaching compared with other students. See *Access to Effective Teaching for Disadvantaged Students*, Mathematica Policy Research / U.S. Department of Education, November 2013, available at:

<http://www.mathematica-mpr.com/Education/tqd.asp> [last visited June 30, 2014].

61. Defendants' failure to meet the minimum standards under the Education Article as to the delivery of a sound basic education at disproportionately greater levels with respect to minority children is a violation of Equal Protection of the laws guaranteed by the New York State and the Federal Constitutions.

62. All of the Plaintiffs herein have been harmed as a result of the Defendants' actions and/or omissions.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

VIOLATION OF THE EDUCATION ARTICLE OF THE NEW YORK STATE

CONSTITUTION (All Defendants)

63. Plaintiffs repeat, reallege and reiterate each and every allegation previously stated in the paragraphs above as if fully stated herein and further states as follows.

64. The tenure system as embodied in the Tenure Laws and the N.Y. Educational Law render it impossible for the Defendants to deliver a sound basic education to all students, as there is no recourse to remove incompetent teachers who cannot deliver a sound basic education as required by the Education Article. As such, the offending portions of the N.Y. Educational Law and related underlying administrative regulations should be stricken as unconstitutional.

SECOND CAUSE OF ACTION

VIOLATION OF THE EDUCATION ARTICLE OF THE NEW YORK STATE

CONSTITUTION (All Defendants)

65. Plaintiffs repeat, reallege and reiterate each and every allegation previously stated in the paragraphs above as if fully stated herein and further states as follows.

66. The N.Y. Educational Law, as administered by the Defendants render it impossible for the Defendants to deliver a sound basic education to all students, as there is effectively no recourse to remove incompetent teachers who cannot deliver a sound basic education as required by the Education Article. As such, the offending portions of the N.Y. Educational Law and related underlying administrative regulations should be stricken as unconstitutional.

THIRD CAUSE OF ACTION

VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE NEW YORK STATE

CONSTITUTION (All Defendants)

67. Plaintiffs repeat, reallege and reiterate each and every allegation previously stated in the paragraphs above as if fully stated herein and further states as follows.

68. The N.Y. Educational Law, as administered by the Defendants render it impossible for the Defendants to deliver a sound basic education to all students, as there is no recourse to remove incompetent teachers who cannot deliver a sound basic education as required by the Education Article. Said failure to deliver basic education is even further pronounced in minority and low income schools, school districts and

communities, and is a violation of Equal Protection of the laws guaranteed by the New York State Constitution.

FOURTH CAUSE OF ACTION

VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE FEDERAL

CONSTITUTION (All Defendants)

69. Plaintiffs repeat, reallege and reiterate each and every allegation previously stated in the paragraphs above as if fully stated herein and further states as follows.

70. The N.Y. Educational Law, as administered by the Defendants render it impossible for the Defendants to deliver a sound basic education to all students, as there is no recourse to remove incompetent teachers who cannot deliver a sound basic education as required by the Education Article. Said failure to deliver basic education is even further pronounced in minority and low income schools, school districts and communities, and is a violation of Equal Protection of the laws guaranteed by the Federal Constitution.

JURY DEMAND

71. Plaintiffs hereby demand a trial by jury.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray for judgment against Defendants as follows:

- 1) Certify this case to proceed as a class action pursuant to CPLR Article 9;
- 2) Issue an Order declaring that the applicable provisions of the N.Y. Educational Law are unconstitutional on their face with respect to the Educational Article of the New York State Constitution;
- 3) Issue an Order declaring that Defendants, in their administration of the applicable provisions of the N.Y. Educational Law and related administrative regulations, have rendered the applicable provisions of the N.Y. Educational Law unconstitutional in effect with respect to the with respect to the Educational Article of the New York State Constitution;
- 4) Issue an Order declaring that Defendants, in their administration of the applicable provisions of the N.Y. Educational Law and related administrative regulations, have rendered the applicable provisions of the N.Y. Educational Law unconstitutional in effect with respect to the with respect to the Equal Protection Clause of the New York State Constitution;
- 5) Issue an Order declaring that Defendants, in their administration of the applicable provisions of the N.Y. Educational Law and related administrative regulations, have rendered the applicable provisions of the N.Y. Educational Law unconstitutional in effect with respect to the with respect to the Equal Protection Clause of the Federal Constitution;
- 6) Award Plaintiffs reasonable costs, litigation expenses, and attorneys' fees;
- 7) Grant Plaintiffs such additional relief as may be just, proper and equitable.

Dated: June 30, 2014
Staten Island, New York

Yours, etc.

JONATHAN W. TRIBIANO, PLLC

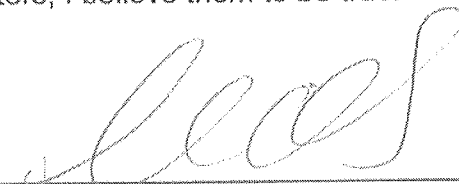
/S/ JONATHAN W. TRIBIANO, ESQ.
JONATHAN W. TRIBIANO, ESQ.
1811 Victory Boulevard
Staten Island, NY 10314
Tel.: (718) 530-1445

VERIFICATION

State of New York

County of Richmond ss.:

Miamona Davids, being duly sworn, deposes and says: I am the parent and natural guardian of Eric Davids, Plaintiff in this matter. I have read the foregoing pleadings to be submitted to the Court and know the contents to be true to my own knowledge, except for those matters alleged to be on information and belief, and as to those matters, I believe them to be true.


Name Printed: Miamona Davids

Sworn to before me this 30th day
of June, 2014.

Shailesh A. Patel
NOTARY PUBLIC

SHAILESH A. PATEL
Notary Public of New York
Bronx County #01PA6081382
My Commission Expires October 7, 2014

VERIFICATION

State of New York

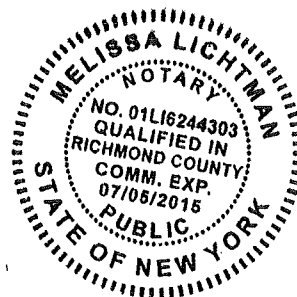
County of Richmond ss.:

ANGELA PERALTA, being duly sworn, deposes and says: I am the parent and natural guardian of ALEXIS PERALTA, STACY PERALTA and LENORA PERALTA, Plaintiffs in this matter. I have read the foregoing pleadings to be submitted to the Court and know the contents to be true to my own knowledge, except for those matters alleged to be on information and belief, and as to those matters, I believe them to be true.

Angela Peralta
ANGELA PERALTA

Sworn to before me this 30th day
of July, 2014.

Melissa Lichtman
NOTARY PUBLIC



VERIFICATION

State of New York

County of Richmond ss.:

SAM PIROZZOLO, being duly sworn, deposes and says: I am the parent and natural guardian of SAMANTHA PIROZZOLO and FRANKLIN PIROZZOLO, Plaintiffs in this matter. I have read the foregoing pleadings to be submitted to the Court and know the contents to be true to my own knowledge, except for those matters alleged to be on information and belief, and as to those matters, I believe them to be true.

Sam Pirozzolo
SAM PIROZZOLO

Sworn to before me this 30th day
of June, 2014.

Melissa Lichtman
NOTARY PUBLIC



VERIFICATION

State of New York

County of Richmond ss.:

Kendra OKE, being duly sworn, deposes and says: I am the parent and natural guardian of Izaiyah Ewee, Plaintiff in this matter. I have read the foregoing pleadings to be submitted to the Court and know the contents to be true to my own knowledge, except for those matters alleged to be on information and belief, and as to those matters, I believe them to be true.

Kendra OKE
Name Printed: Kendra OKE

Sworn to before me this 30th day
of June, 2014.

Shailesh A. Patel
NOTARY PUBLIC

SHAILESH A. PATEL
Notary Public of New York
Bronx County #01PA6081382
My Commission Expires October 7, 2014